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**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 5:30 p.m.,  
January 3, 1995  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Executive Session

Litigation - Govt. Code Section 54956.9(a)  
Hislop v. Rent Board (Superior Court Case No. 961-976)  
Madden v. Rent Board (Superior Court Case No. 985569)

- V. Remarks from the Public
- VI. Consideration of Appeals

A. 1045 Lake St. #9 P001-54R  
(cont. from 11/29/94)

Tenant appeal of the dismissal of her unlawful rent increase petition due to her failure to appear at the hearing.

B. 350 Turk St. #T-311 P001-63R

Tenant appeal of a decision partially granting his petition alleging decreased housing services.

C. 1917 Taraval St. P001-44A

Landlord appeal of a decision granting a rent reduction due to a decrease in services and determining rent overpayments.

D. 347 Oak St. P001-64R

Tenant appeal of a decision granting rent increases based on comparables.

3 1223 05719 5530

E. 1811 - 29th Ave. P001-65R

Tenant appeal of the denial of his Summary Petition alleging an unlawful increase in rent.

F. 1369 Hyde St. (21 tenants) P001-66R thru -86R

Twenty-one tenants appeal the remand decision granting certification of capital improvement costs.

G. 2350-52 Polk St. P001-45A

Landlord appeal of a decision granting some, but not all, of the landlord's petitioned-for capital improvement costs.

H. 2420 Franklin St. #1 P001-87R

Tenant appeal of a decision granting rent increases based on increased operating expenses due to financial hardship.

VII. Communications

VIII. Director's Report

IX. Old Business

Ordinance and Rules Changes: Proposition I, Domestic Partners

IV. Remarks from the Public (cont.)

X. New Business

Supplemental Appropriation, Proposition I

XI. Calendar Items

XII. Adjournment



**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, January 3, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

**I. Call to Order**

President Coffino called the meeting to order at 5:45 p.m.

**II. Roll Call**

Commissioners Present: B. Becker; L. Becker; Coffino;  
Lightner; Marshall; Nash;  
Schlichtmann.

Commissioners not Present: Gruber; How; Steane.  
Staff Present: Gartzman; Grubb; Wolf.

**III. Approval of the Minutes**

MSC: To approve the Minutes of December 13 and  
December 20, 1994. (Lightner/Marshall: 5-0)

**IV. Consideration of Appeals**

A. 347 Oak St.

P001-64R

The tenant's appeal was filed approximately 5-1/2 weeks late  
because the tenant alleges that he was still depressed due to the  
death of his long-term lover in 1988, and believed that the  
attorney who had represented him in a prior case before the  
Board would have received a copy of the Decision and taken any  
necessary action.

MSC: To find that no good cause exists for the  
late filing of the appeal. The Decision of Hearing  
Officer is therefore final. (Coffino/Lightner: 3-2;  
B. Becker, Marshall dissenting)

B. 2350-52 Polk St.

P001-45A

The landlord's petition to pass through the costs of rebuilding the  
rear stairs and related roof work to two units and new linoleum to  
the tenant in one unit only was granted. Upon appeal by two  
tenants, the Board remanded the case on the issue of deferred

A faint, out-of-focus background image of a classical building, possibly a temple or a government building, featuring four prominent columns supporting a pediment. The building is rendered in a light beige or cream color, blending with the overall tone of the page.

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maintenance regarding the rear stairs. As the tenants' argument that the rear stair work was necessitated by the current landlord's deferred maintenance that had resulted in a code violation was backed up by the evidence, the Decision of Hearing Officer on Remand disallowed this cost. The landlord appeals the remand decision, claiming that the hearing officer's interpretation of Rules Section 7.15(a) was in error because the mere presence of a code violation does not prove deferred maintenance. Rather, the landlord claims that the stairs needed to be replaced because they were old, weathered and infected with dry rot, which occurred through no fault of the landlord's.

MSC: To accept the appeal and remand the case for a new hearing on the issue of deferred maintenance as a defense to the passthrough for the rear stair work. ((Marshall/B. Becker: 5-0)

#### V. Remarks from the Public

AI Goodwin expressed his displeasure that the current capital improvement petition does not indicate that a landlord can receive reimbursement for actual interest costs incurred at a rate greater than that allowed for imputed interest. One tenant inquired as to the Board's jurisdiction over shared housing situations; another expressed his belief that the Board's duty is to enact laws to protect tenants and poor people. Robert Pender of the Tenants' Network echoed the "horror stories" of the two tenants who spoke previously as the justification for Proposition I; and said that those tenants who worked for the passage of Prop. I always intended for it to apply to domestic partners.

#### VI. Executive Session

The Commissioners went into Executive Session pursuant to Government Code Section 54956.9(a) with City Attorneys Ilene Dick and Jay Cumming from 6:00 p.m. to 7:15 p.m. to discuss the cases of Hislop v. Rent Board (Superior Court Case No. 961-976) and Madden v. Rent Board (Superior Court Case No. 958-569). Prior to the public's being asked to leave the room, Robert Pender of the Tenants' Network expressed his opinion for the record that the public comment section of the agenda should always be taken before an Executive Session is commenced.

#### IV. Consideration of Appeals (cont.)

C. 1045 Lake St. #9

P001-54R

(cont. from 11/29/94)

The tenant's petition alleging an unlawful increase in rent was



dismissed due to her failure to appear at the properly noticed hearing. The tenant filed an appeal five months late, alleging that she was out of the country due to the extended illness and subsequent death of her mother. At the meeting on November 29, 1994, staff was instructed to contact the tenant and ascertain the reason for her appeal having been filed so long after it appears that she arrived back in the country. The tenant furnished the requisite explanation and documentation.

MSC: To find good cause for the late filing of the appeal. (Marshall/Schlichtmann: 5-0)

MSC: To accept the appeal and remand the case for a new hearing. (Schlichtmann/Marshall: 5-0)

D. 350 Turk St. #T-311

P001-63R

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$20.00 per month due to the lack of regular cold water in the building. The hearing officer found, however, that the tenant had failed to meet his burden of proof regarding an allegation of inadequate heat. The tenant appeals, asserting that \$20.00 per month is an inadequate amount of compensation; that letters from 3 other tenants in the building and a lawyer attest to the decreased services for the past 25 years; and that, since he moved out of the building on October 29, 1994, he should not have received a rent reduction for the month of November, 1994.

MSC: To accept the appeal and remand the case for a new hearing on the issues of the adequacy of heat in the unit and the correct termination date for the rent reduction.  
(Marshall/B. Becker: 4-1; Nash dissenting)

E. 1917 Taraval St.

P001-44A

The tenant's petition alleging substantial decreases in housing services and an unlawful increase in rent was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$475.00 due to a \$25.00 per month rent increase imposed because of the presence of an additional occupant in the unit. The tenant was also granted the amount of \$300.00 due to an inoperative light fixture for an 11-month period. The landlord appeals, asserting that the rent increase was brought about by the tenant, who never protested the terms of the new rental agreement; and that the fluorescent light fixture in the kitchen worked properly every time it was inspected.



MSC: To deny the appeal. (Marshall/B. Becker: 5-0)

F. 1811 - 29th Ave.

P001-65R

The tenant filed a Summary Petition alleging an unlawful increase in rent from \$700 to \$1,500.00. As the landlord disputed that there was an increase, but alleged a restoration of the previously discounted rental amount, the matter was set for hearing. The tenant had shared the unit with the landlord's son. The hearing officer found that the initial agreement had been for a rent of \$1,500.00, with a \$500.00 discount for the tenants' assumption of maintenance responsibilities for the premises. The landlord "forgave" his son's share of the rent, and agreed to accept payment only in the amount of \$700.00. After his son vacated the premises, and upon the landlord concluding that the tenant was not providing sufficient upkeep of the property, he reinstated the prior base rent amount of \$1,500, but agreed to a continuing \$100.00 discount. The hearing officer denied the tenant's petition, finding that there had been no unlawful increase in rent. The tenant appeals, asserting that, since the evidence shows that the most rent ever charged for the unit was \$700.00, that must be determined to be the base rent under Ordinance Section 37.2(a). Additionally, he maintains that he should receive credit in the amount of \$400.00 per month for maintenance services he continued to provide while the case was being decided.

MSC: To deny the appeal. (Lightner/Nash: 5-0)

G. 1369 Hyde St. (21 tenants)

P001-66R thru -86R

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. After appeal by the landlord, the Rent Board Commissioners remanded the case to the hearing officer for a new hearing on the issue of the cost of painting the common area hallways of the building. As the landlord's in-house employee had performed the work, the hearing officer had found that the landlord had inadequately documented the actual labor costs for the work. The Board instructed the hearing officer to ascertain the reasonable cost of materials and labor for a job of this size and certify the actual labor cost of the landlord's in-house employee, adjusted for benefits. This resulted in a small additional monthly passthrough to each affected tenant. Twenty-one tenants appeal the remand decision, asserting that the decision is in violation of the Rules and Regulations in that the landlord failed to provide the necessary documentation, but instead furnished estimates of



expenses, some of which were not even incurred; and that since the work was performed by in-house employees while receiving their regular compensation, there was no additional labor expense.

MSC: To deny the appeals.  
(Lightner/Nash: 5-0)

H. 2420 Franklin St. #1                    P001-87R

The landlord's petition for a rent increase based on comparable rents was granted and the hearing officer determined that the landlord was entitled to raise the rent from \$150.00 to \$340.00. The tenant had been a sub-tenant of a previous resident manager of the building, who paid no rent for the unit in lieu of services. Upon the death of the master tenant, the tenant paid no rent at all for a 3-year period, and then negotiated a base rent of \$150.00. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to a hearing officer for a hearing on the issue of the tenant's financial hardship.  
(Marshall/B. Becker: 4-1; Nash dissenting)

#### VII. Communications

The Commissioners received several communications pertaining to cases on the calendar.

#### VIII. Old Business

##### A. Domestic Partners

The Commissioners briefly discussed a proposed amendment to the Ordinance, drafted by Commissioner Steane, which would include domestic partners for purposes of owner-occupancy evictions. As Commissioner Steane was not in attendance, discussion of this issue was continued.

##### B. Proposition I

The Commissioners discussed various issues related to the implementation of Proposition I, including a draft proposal distributed by Commissioner Coffino at the end of the December 20, 1994 meeting. Two recent court cases, City of Berkeley v. City of Berkeley Rent Stabilization Board (27 Cal.App.4th 951 [Aug. 1994]) and Apartment Association of Greater Los Angeles v. Santa Monica Rent Control Board (24 Cal.App.4th 1730 [May



1994]) were brought to the Board's attention by two Commissioners. The discussion will be continued at the January 10th meeting, which will primarily be devoted to Proposition I.

IV. Remarks from the Public (cont.)

Three landlords and three tenants voiced their concerns regarding issues related to the implementation of Proposition I.

IX. New Business

Executive Director Grubb informed the Commissioners that he has prepared a Supplemental Budget Request to cover increased costs related to the passage of Proposition I and the addition of some 44,790 billable units to Rent Board jurisdiction. Mr. Grubb estimates that \$45,000 to \$50,000 will be needed to pay for an additional hearing officer and counselor; a mailing to all owners and tenants; an additional billing by the Tax Collector for reimbursement of the rental unit fee; equipment costs; etc. The Board approved the request.

X. Calendar Items

January 10, 1995

1 appeal consideration

Executive Session: Threatened Litigation

Old Business: Domestic Partners; Proposition I

January 17, 1995 - NO MEETING

January 24, 1995 - NO MEETING

XI. Adjournment

President Coffino adjourned the meeting at 9:20 p.m.



**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 5:30 p.m.,  
January 10, 1994  
25 Van Ness Avenue, #70, Lower Level

**A G E N D A**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals  
177 - 15th St., Apt. 1 P001-46A  
Landlord appeal of a decision partially granting a petition alleging decreased housing services.
- VI. Communications
- VII. Director's Report
- VIII. Executive Session
- 7:00 Threatened Litigation - Govt. Code Section 54956.9(b)(2)(E)  
Proposition I: Comparables, Banking, Capital Improvements
- IX. Old Business  
Ordinance and Rules Changes: Proposition I; Domestic Partners
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment



**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, January 10, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

**I. Call to Order**

President Coffino called the meeting to order at 5:45 p.m.

**II. Roll Call**

Commissioners Present: Coffino; Gruber; Lightner;  
Nash; Steane.

Commissioners not Present: L. Becker; How;  
Schlichtmann.

Staff Present: Gartzman; Grubb; Wolf.

Commissioner B. Becker appeared on the record at 5:50  
p.m.; Commissioner Marshall arrived at 5:55 p.m.

**III. Remarks from the Public**

Al Goodwin requested that Executive Sessions always be  
scheduled after the Public Remarks section of the agenda.

**IV. Communications**

The Commissioners received new copies of the Rules and  
Regulations that have section headings on the top of each page.

**V. Director's Report**

Executive Director Grubb reported that he will be on vacation the  
week of January 23rd. He also informed the Commissioners that  
Security Guards have been retained for the Public Hearing on  
Proposition I.

**VI. Consideration of Appeals**

A. 1771 - 15th St.

P001-46A

The landlord's appeal was filed almost five months late. The  
landlord's attorney argues that good cause for late filing of the



appeal exists because the decision is unfair, as the landlord was not proficient in the English language and his interpreter was unqualified and had a conflict of interest, and the results of the decision present a financial hardship to the landlord.

MSC: To find no good cause for the late filing of the appeal. The Decision of Hearing Officer is therefore final. (Coffino/Steane: 5-0)

VII. Old Business

The Commissioners discussed a proposal drafted by President Coffino which addresses issues related to the implementation of Proposition I, including: a streamlined comparables petition process, which would allow certain owners of newly covered units to raise rents to reflect "general market conditions"; vacancy control and decontrol for newly covered units; the earliest commencement date for any rent reductions granted due to decreased housing services in newly covered units; procedures pertaining to capital improvement passthroughs and operating expense increases for newly covered units; etc. Commissioner Coffino informed the Board members that he is also considering adding a threshold requirement for the two types of comparables petitions outlined in his proposal, wherein an owner of a newly covered unit would have to show that the rent is substantially below market in order to be eligible for the streamlined process; and a phase-in of any approved amounts, similar to the 10% "cap" on capital improvement passthroughs contained in Rules Section 7.12(d). A comparables proposal introduced by Commissioner Marshall was also discussed. Commissioner Marshall's proposal deems that extraordinary circumstances exist when recent purchasers of newly covered units bought the properties in reliance on the ability to raise rents in amounts now prohibited by Proposition I. Both proposals will be put out for Public Hearing on January 31, 1995, at 5:30 p.m.

VIII. Executive Session

The Board went into Executive Session pursuant to Government Code Section 54956.9(b)(2)(E) from 7:15 to 8:15 p.m. with Deputy City Attorneys Ilene Dick and Jay Cumming to discuss threatened litigation in conjunction with the Board's rule-making authority in the implementation of Proposition I.

III. Remarks from the Public (cont.)

Three members of the public addressed issues related to Proposition I.

IX. Calendar Items



January 17 and 24, 1995 - NO MEETING

January 31, 1995

5:30      Public Hearing: **Proposition I**

X.    Adjournment

President Coffino adjourned the meeting at 9:30 p.m.





MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

January 20, 1995

## NOTICE OF PUBLIC HEARING

DATE:	JANUARY 31, 1995
TIME:	5:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO  
COMMENT ON PROPOSED CHANGES TO THE RULES AND  
REGULATIONS GOVERNING THE RESIDENTIAL RENT  
STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER  
37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE  
ATTACHED LANGUAGE WHICH IS INTENDED TO IMPLEMENT  
PROPOSITION I. PLEASE NOTE THAT ALL SECTIONS ARE  
NEW, EXCEPT FOR VERSION C OF 6.11(a).

THERE ARE THREE VERSIONS OF SECTION 6.11 WHICH ARE  
LABELED A, B AND C. ALSO ATTACHED ARE SINGLE  
VERSIONS OF SECTIONS 4.10(d), 6.10(i), 7.10(d) and  
10.10(e). 6.14(e) HAS TWO VERSIONS.

You may either comment at the public hearing or submit written  
comments. If you would like to submit written comments, it is  
recommended that they be received at the department no later than  
Noon Thursday January 26, 1995, so that the Commissioners can  
review your comments prior to the hearing. Written comments may  
also be submitted at the hearing. You will also be able to address the  
Commissioners during public comment -period at the hearing.





## **Proposed Amendments to Rules and Regulations**

**ADD NEW SECTION 6.11(d) TO RULES AND REGULATIONS**

## Section 6.11. Comparables

(d) Special Provisions For Owners of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance.

The following rules shall apply to petitions filed by landlords of newly covered units, as defined by Section 37.12 of the Rent Ordinance ("Newly Covered Units"), for rent increases based upon rents for comparable units.

(1) Extraordinary circumstances. For purposes of Section 6.11(a), the passage of Proposition I in 1994 shall be deemed to be "extraordinary circumstances" for landlords of Newly Covered Units for which the landlord seeks a rent increase based upon rents for comparable units, provided the landlord meets either one of the following two requirements:

(A) The initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, was less than eighty percent (80%) of the Department of Housing and Urban Development fair market rents established for existing housing in the Primary Metropolitan Statistical Area including San Francisco County, as of the initial base rent date, under Section 8 of the United States Housing Act of 1937 ("the HUD Threshold"); or

(B) The initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, is substantially below (i.e., less than eighty percent (80%) of) general market conditions as determined in accordance with Section 6.11(d)(3) below.

A landlord who fails to satisfy one or the other of these requirements shall not be entitled to a rent increase under this Section 6.11(d); provided, however, that any such failure shall be without prejudice to the right of the landlord to petition for and receive approval of a rent increase under Section 6.11(a) above.

(2) Information to Accompany Comparables Petition Under Section 6.11(d).

In addition to complying with the requirements of Sections 5.11 and 5.12 of these Rules and Regulations, a landlord who seeks a rent increase under this Section 6.11(d)

must file a petition with the Board containing the following information:

(A) The initial base rent, as defined by Section 37.12(a) of the Rent

### Ordinance;

(B) The names and addresses of all tenants who are subject to the petition and the dates their tenancies commenced;

(C) To the extent reasonably available, copies of all written rental agreements for the Newly Covered Units who are subject to the petition;

(D) The basis for the proposed rent increase being sought:

(E) A showing that the current rent does not reflect general market conditions;

(E) If the Newly Covered Unit became vacant on or after May 1, 1994, and

was relet prior to December 22, 1994, a statement, under penalty of perjury, and other

documentary evidence, explaining the circumstances under which the unit became vacant in

sufficient detail to allow the Board to determine whether the tenant vacated the unit as a result of

a Proper Termination of the Tenancy (as defined in subsection (d)(9) below):

(G) a statement, under penalty of perjury, and other documentary evidence

establishing, that, on the initial lease rent date, the building in which the unit is located was

owner-occupied within the meaning of Section 37.2(p)(5) of the Rent Ordinance; and

(H) For each Newly Covered Unit for which a rent increase is sought, a

description of the terms of any oral agreements or other special arrangements with the tenant.

(e.g., rental of a garage).

### (3) Burden of Proof

On any petition filed pursuant to this Section 6.11(d), the landlord shall have the burden of proof on all issues necessary to sustain the petition, including (i) the threshold issues described in Section 6.11(d)(1) above, (ii) the issue whether, where applicable, the Newly Covered Unit was vacated as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(9) below), and (iii) the level of rent that reflects general market conditions. It shall be a rebuttable presumption that any initial base rent which is less than the HUD Threshold (as defined in subsection (d)(1)(A) above) does not reflect general market conditions. The landlord

may establish the level of rent that reflects general market conditions in the following ways:

(A) In the case of a Newly Covered Unit that was vacated on or after

May 1, 1994, and relet prior to December 22, 1994, there shall be a rebuttable presumption that the relet amount of rent reflects general market conditions provided that the unit was vacated as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(9) below);

(B) In the case of a Newly Covered Unit that was occupied by a tenant on May 1, 1994, and who received a rent increase from the landlord between May 1, 1994, and December 22, 1994, there shall be a rebuttable presumption that the latest rent during that period reflects general market conditions;

(C) In the case of a Newly Covered Unit as to which the landlord, between April 1, 1982 and April 30, 1994, did not impose rent increases that would have been allowable had the unit been subject to the jurisdiction of the Rent Ordinance, there shall be a rebuttable presumption that the level of rent that the landlord could have charged, as calculated in accordance with subsection (d)(6) below, had the unit had been under the jurisdiction of the Rent Ordinance since April 1982, reflects general market conditions;

(D) In all instances, the landlord may prove general market conditions by any other customary means applicable, including through the use of expert testimony, and/or by comparing the subject unit to other units with respect to the following factors to the extent applicable: distance from the subject unit, the total square footage, whether the unit was furnished or unfurnished by the landlord, the number of bedrooms and baths, the existence of a dining room, the total number of rooms, the use and nature of a stove, refrigerator, oven, dishwasher and/or garbage disposal, the existence of a working fireplace, carpets or hardwood floors, the use of an elevator and house level, the nature and extent of any views from the unit, access to a yard, the type of heating system, parking opportunities or availability of a garage, the general condition of the building, and monthly rents. The landlord may, but shall not be required to, supply information regarding the length of occupancy of the current tenant.

The rebuttable presumptions described in this subsection (d)(3) shall become conclusive if either the tenant waives a hearing on the petition (as set forth below) or the tenant

1 and/or landlord fail to overcome the presumption with competent evidence at any hearing that  
2 occurs on the petition. At any such hearing, the tenant shall be entitled to assert the defenses  
3 that are available pursuant to Section 6.12 of these Rules and Regulations. The tenant shall  
4 have the burden of proof on any such defenses.

5 (4) Time of Filing of Petition and Notice.

6 A landlord must file a petition before giving legal notice of a rent increase under  
7 this Section 6.11(d). The notice shall include the dollar amount requested and the reason for the  
8 rent increase. This increase shall be inoperative unless and until the petition is approved by a  
9 hearing officer. Any amount approved by a hearing officer shall relate back to the effective date  
10 of the legal notice, if given. If the landlord serves a notice of rent increase under this Section  
11 6.11(d) without first filing a petition, the increase shall be null and void.

12 (5) Procedures For Deciding a Comparables Petition Under Section 6.11(d).

13 As soon as practical after the filing of the petition, the staff of the Board shall  
14 administratively determine whether the proposed rent increases set forth in the petition are  
15 justified and whether the landlord has otherwise met his or her burden of proof. If the staff of the  
16 Board determines that the proposed rent increases are justified, and, where applicable, the  
17 landlord has made out a prima facie case that the Newly Covered Unit was vacated as a result  
18 of a Proper Termination of the Tenancy (as defined in subsection (d)(9) below), the Board shall  
19 send a notice to the tenant and the landlord certifying that the landlord provisionally has met his or  
20 her burden of proof and thus may be entitled to the proposed rent increase. The notice shall also  
21 advise the tenant of his or her right to an arbitration hearing on the comparables petition and that  
22 unless the tenant, within 30 calendar days of the mailing of the notice, elects in writing to have a  
23 hearing, the right to a hearing shall be deemed waived. In the event that the hearing is waived  
24 by the tenant, a hearing officer shall promptly issue a decision approving the rent increases  
25 sought by the landlord. The decision shall include a copy of the comparables petition, which  
26 shall constitute the findings and conclusions of the hearing officer.

27 If the Board determines that the rent increases proposed by the landlord are not  
28 justified, or that the landlord, where applicable, has not established a prima facie case that the

1 Newly Covered Unit was vacated as a Result of a Proper Termination of the Tenancy (as  
2 defined in subsection (d)(9) below), it may, in its discretion, either set the petition for hearing or  
3 request further information from the landlord in an effort to resolve any facial inadequacies in the  
4 petition. If, as a result of further information obtained by the staff of the Board, the initial petition  
5 is amended to increase the amount of the rent increase sought by the landlord, the landlord shall  
6 serve on the tenant a legal notice of the proposed rent increase, amending any prior notice if  
7 necessary. If the initial petition is amended to decrease the amount of the rent increase sought  
8 by the landlord and/or to add factual information, no such further notice need be given, unless the  
9 landlord has not provided any notice up until that point.

10 If, after obtaining further information, the Board determines that the proposed rent  
11 increases are not justified, the Board shall send a notice to the landlord and the tenant  
12 administratively (and provisionally) denying the petition. The notice shall also advise the  
13 landlord of his or her right to an arbitration hearing on the comparables petition and that unless the  
14 landlord, within 30 calendar days of the mailing of the notice, elects in writing to have a hearing,  
15 the right to a hearing shall be deemed waived. In the event that the hearing is waived by the  
16 landlord, a hearing officer shall promptly issue a decision denying the petition. The decision shall  
17 include a copy of the comparables petition and a copy of the notice of the administrative and  
18 provisional denial, which shall constitute the findings and conclusions of the hearing officer.

19 In the case of a Newly Covered Unit as to which the landlord requested and  
20 received from the tenant a rent increase during the period from May 1, 1994 until and including  
21 December 21, 1994, the granting of a comparables petition shall not derogate any right of the  
22 tenant to a rent refund or offset mandated by Proposition I.

23 (6) Calculation of Rent Increase For Purposes of Subsection (3)(C).

24 For purposes of subsection (3)(C) above, determination of the rent that the  
25 landlord could have charged had the unit been under the jurisdiction of the Rent Ordinance since  
26 April 1982, shall be calculated as follows: (i) first determine the earliest rent for the existing  
27 tenancy on or after April 1, 1982; (ii) beginning with April 1, 1983, or one year after the  
28 commencement of the existing tenancy, whichever is earlier, multiply the allowable annual rent

1 increase percentage published by the Board against the earliest rent the landlord can establish  
2 for the existing tenancy on or after April 1, 1982; (iii) on a compounded basis, add subsequent  
3 allowable annual rent increases as published by the Board; and (iv) from the dollar amount of the  
4 total allowable increases, subtract the dollar amount of any actual rent increases imposed during  
5 the applicable period. For purposes of this subsection (5), any actual individual rent increase  
6 that was imposed by a landlord (or his or her predecessors) on a Newly Covered Unit which  
7 would have exceeded the allowable limits had the unit been subject to the Rent Ordinance shall  
8 not be deemed "null and void" within the meaning of Section 4.10 of these Rules and Regulations  
9 and Section 37.3(b)(5) of the Rent Ordinance.

10 (7) Maximum Rent Increase.

11 Except in extraordinary circumstances, which shall include, without limitation, the  
12 loss of a fair and reasonable return on the subject property, to be determined by the Board on  
13 appeal, no rent increase approved under this Section 6.11(d) shall exceed ten (10%) of the  
14 tenant's base rent in any given year. A landlord may accumulate any approved rent increase  
15 which exceeds this amount and impose the increase in subsequent years subject to the ten  
16 percent (10%) limitation of this subsection. The limitation imposed in this subsection shall not in  
17 any way limit the right of a landlord to impose any other rent increase allowed or approved in  
18 accordance with the Rent Ordinance or these Rules and Regulations.

19 (8) Imposition of Approved Rent Increase.

20 Nothing in this Section 6.11(d) shall require a landlord of a Newly Covered Unit to  
21 impose any rent increase approved under this Section at any particular time after approval. A  
22 landlord may impose any such rent increase at any time after the filing of a petition under this  
23 Section 6.11(d) upon giving proper 30 days notice.

24 (9) Proper Termination of The Tenancy.

25 For Newly Covered Units which became vacant on or after May 1, 1994, and  
26 which were relet prior to December 22, 1994, a Proper Termination of the Tenancy shall be  
27 deemed to have occurred if the tenant vacated the tenancy either (a) voluntarily, i.e., without any  
28 coercion or improper conduct (e.g., retaliation) by the landlord or (b) as a result of an eviction that

1 would have qualified as just cause under Sections 37.9(a)(1) thru (7) and (9) thru (12) of the  
2 Rent Ordinance.

3 (10) Severability

4 Each of the provisions of this Section 6.11(d) shall be deemed to be severable.  
5 If any provision of this Section 6.11(d) or the application of any provision to any person or  
6 circumstance is held invalid, such invalidity shall not affect the remaining provisions of this  
7 Section which can be given effect without the invalid provision.

8 (11) Limited Scope.

9 This Section 6.11(d) shall apply only to Newly Covered Units.

10 (12) Landlord Election.

11 The petition described in this Section 6.11(d) is not the exclusive means by  
12 which a landlord of a Newly Covered Unit may seek a rent increase based on rents for  
13 comparable units. Such a landlord may elect instead to file a petition under subsections 6.11(a)  
14 thru (c) in the normal course.

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**VERSION B**

## Proposed Amendments to Rules and Regulations-

**ADD NEW SECTION 6.11(d) TO RULES AND REGULATIONS**

## Section 6.11. Comparables

(d) Special Provisions For Owners of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance.

(1) For purposes of Section 6.11(a), the passage of Proposition I in 1994 shall be deemed to be "extraordinary circumstances" for landlords of newly covered units, as defined by Section 37.12 of the Rent Ordinance ("Newly Covered Units), for which the landlord seeks a rent increase based upon rents for comparable units, provided the unit falls into any one of the following categories:

(A) The unit received no or only negligible rent increases during the period the unit, prior to May 1, 1994, was exempt from the Rent Ordinance pursuant to Section 37.2(p)(5) of the Rent Ordinance.

(B) The unit received no rent increases during the period May 1, 1991 through April 30, 1994;

(C) The unit was charged historically low rent because of a special relationship between tenant and landlord;

(D) The unit was charged historically low rent because the tenant provided certain services to the landlord related to the building in exchange for rent;

(E) The unit is located in a building purchased by the petitioning landlord after January 1, 1993, in which the landlord was living for less than six months as of May 1, 1994;

(F) The unit is located in a building purchased by the petitioning landlord after January 1, 1993, in which the landlord was living for less than six months as of December 22, 1994;

(G) The unit is located in a building purchased by the petitioning landlord after January 1, 1993, in which the landlord had lived for six months prior to May 1, 1994,

1 and as to which no rent increase was given after the expiration of that six month period and prior to  
2 May 1, 1994;

3 (H) The unit is located in a building as to which the landlord incurred  
4 costs for capital improvements during the five-year period prior to May 1, 1994, which exceeded  
5 \$2,500 per unit, and which were not passed on to the tenants in the form of rent increases;

6 (I) The initial base rent for the unit, as defined by Section 37.12(a) of  
7 the Rent Ordinance, is substantially below (i.e., less than eighty percent (80%) of general market  
8 conditions due to any peculiar or extraordinary circumstance not described in any of the preceding  
9 subparagraphs.

10 A landlord of a Newly Covered Unit who fails to show that the unit  
11 falls into any of the categories listed above shall not be entitled to a rent increase under this  
12 Section 6.11(d); provided, however, that any such failure shall be without prejudice to the right of  
13 the landlord to petition for and receive approval of a rent increase under Section 6.11(a) above.

14 The following rules shall apply to petitions filed by landlords of  
15 Newly Covered Units, for a rent increase based upon rents for comparable units, under this  
16 Section 6.11(d).

17 (2) Information to Accompany Comparables Petition Under Section 6.11(d)

18 In addition to complying with the requirements of Sections 5.11 and 5.12 of these Rules and  
19 Regulations, a landlord who seeks a rent increase under this Section 6.11(d) must file a petition  
20 with the Board containing the following information:

21 (A) The initial base rent, as defined by Section 37.12(a) of the Rent  
22 Ordinance;

23 (B) The names and addresses of all tenants who are subject to the  
24 petition and the dates their tenancies commenced;

25 (C) To the extent reasonably available, copies of all written rental  
26 agreements for the Newly Covered Units who are subject to the petition;

27 (D) The basis for the proposed rent increase being sought;

1 (E) A showing that the current rent does not reflect general market  
2 conditions;

3 (F) If the Newly Covered Unit became vacant on or after May 1, 1994,  
4 and was relet prior to December 22, 1994, a statement, under penalty of perjury, and other  
5 documentary evidence, explaining the circumstances under which the unit became vacant in  
6 sufficient detail to allow the Board to determine whether the tenant vacated the unit as a result of a  
7 Proper Termination of the Tenancy (as defined in subsection (d)(9) below);

8 (G) a statement, under penalty of perjury, and other documentary  
9 evidence establishing, that, on December 22, 1994, the building in which the unit is located was  
10 owner-occupied within the meaning of Section 37.2(p)(5) of the Rent Ordinance;

11 (H) To the extent reasonably practicable, the periods of time during  
12 which the unit, prior to December 22, 1994, was owner-occupied within the meaning of Section  
13 37.2(p)(5) of the Rent Ordinance;

14 (I) Sufficient facts and documentary evidence demonstrating that the  
15 Newly Covered Unit falls into one of the categories described in subsection (d)(1) above; and

16 (J) For each Newly Covered Unit for which a rent increase is sought, a  
17 description of the terms of any oral agreements or other special arrangements with the tenant (e.g.,  
18 rental of a garage).

19 (3) Burden of Proof

20 On any petition filed pursuant to this Section 6.11(d), the landlord shall  
21 have the burden of proof on the issues described in Section 6.11(d)(1) above. In addition, the  
22 landlord must show that the initial base rent, as defined by Section 37.12(d) of the Rent Ordinance,  
23 does not reflect general market conditions and also must establish the level of rent that does reflect  
24 general market conditions. It shall be a rebuttable presumption that any initial base rent which is  
25 less than eighty percent (80%) of the Department of Housing and Urban Development fair market  
26 rents established for existing housing in the Primary Metropolitan Statistical Area including San  
27 Francisco County, as of the initial base rent date, under Section 8 of the United States Housing Act  
28 of 1937, does not reflect general market conditions. The landlord may establish the level of rent that

1 reflects general market conditions in the following ways:

2 (A) In the case of a Newly Covered Unit that was vacated on or  
3 after May 1, 1994, and relet prior to December 22, 1994, there shall be a rebuttable presumption  
4 that the relet amount of rent reflects general market conditions provided that the unit was vacated  
5 as a result of a Proper Termination of the Tenancy (as defined in subsection (d)(9) below);

6 (B) In the case of a Newly Covered Unit that was occupied by a  
7 tenant on May 1, 1994, and who received a rent increase from the landlord between May 1, 1994  
8 and December 22, 1994, there shall be a rebuttable presumption that the latest rent during that  
9 period reflects general market conditions;

10 (C) In the case of a Newly Covered Unit as to which the landlord  
11 (or his or her predecessor), between April 1, 1982 and April 30, 1994, did not impose rent increases  
12 that would have been allowable had the unit been subject to the jurisdiction of the Rent Ordinance,  
13 there shall be a rebuttable presumption that the level of rent that the landlord could have charged,  
14 as calculated in accordance with subsection (d)(6) below, had the unit had been under the  
15 jurisdiction of the Rent Ordinance since April 1982, reflects general market conditions;

16 (D) In all instances, the landlord may prove general market  
17 conditions by any other customary means applicable, including through the use of expert  
18 testimony, and/or by comparing the subject unit to other units with respect to the following factors  
19 to the extent applicable: distance from the subject unit, the total square footage, whether the unit  
20 was furnished or unfurnished by the landlord, the number of bedrooms and baths, the existence of  
21 a dining room, the total number of rooms, the use and nature of a stove, refrigerator, oven,  
22 dishwasher and/or garbage disposal, the existence of a working fireplace, carpets or hardwood  
23 floors, the use of an elevator and house level, the nature and extent of any views from the unit,  
24 access to a yard, the type of heating system, parking opportunities or availability of a garage, the  
25 general condition of the building, and monthly rents. The landlord may, but shall not be required to,  
26 supply information regarding the length of occupancy of the current tenant.

27 The rebuttable presumptions described in this subsection (d)(3) shall  
28 become conclusive if either the tenant waives a hearing on the petition (as set forth below) or the

1 tenant and/or landlord fail to overcome the presumption with competent evidence at any hearing  
2 that occurs on the petition. At any such hearing, the tenant shall be entitled to assert the defenses  
3 that are available pursuant to Section 6.12 of these Rules and Regulations. The tenant shall have  
4 the burden of proof on any such defenses.

5 (4) Time of Filing of Petition and Notice.

6 A landlord must file a petition before giving legal notice of a rent increase under  
7 this Section 6.11(d). The notice shall include the dollar amount requested and the reason for the  
8 rent increase. This increase shall be inoperative unless and until the petition is approved by a  
9 hearing officer. Any amount approved by a hearing officer shall relate back to the effective date of  
10 the legal notice, if given. If the landlord serves a notice of rent increase under this Section 6.11(d)  
11 without first filing a petition, the increase shall be null and void.

12 (5) Procedures For Deciding a Comparables Petition Under Section 6.11(d).

13 As soon as practical after the filing of the petition, the staff of the Board shall  
14 administratively determine whether the proposed rent increases set forth in the petition are justified  
15 and whether the landlord has otherwise met his or her burden of proof. If the staff of the Board  
16 determines that the proposed rent increases are justified, and, where applicable, the landlord has  
17 made out a prima facie case that the Newly Covered Unit was vacated as a result of a Proper  
18 Termination of the Tenancy (as defined in subsection (d)(9) below), the Board shall send a notice  
19 to the tenant and the landlord certifying that the landlord provisionally has met his or her burden of  
20 proof and thus may be entitled to the proposed rent increase. The notice shall also advise the  
21 tenant of his or her right to an arbitration hearing on the comparables petition and that unless the  
22 tenant, within 30 calendar days of the mailing of the notice, elects in writing to have a hearing, the  
23 right to a hearing shall be deemed waived. In the event that the hearing is waived by the tenant, a  
24 hearing officer shall promptly issue a decision allowing the rent increases sought by the landlord.  
25 The decision shall include a copy of the comparables petition, which shall constitute the findings  
26 and conclusions of the hearing officer.

27 If the Board determines that the rent increases proposed by the landlord are not  
28 justified, or that the landlord, where applicable, has not established a prima facie case that the

1 Newly Covered Unit was vacated as a result of a Proper Termination of the Tenancy (as defined  
2 in subsection (d)(9) below), it may, in its discretion, either set the petition for hearing or request  
3 further information from the landlord in an effort to resolve any facial inadequacies in the petition. If,  
4 as a result of further information obtained by the staff of the Board, the initial petition is amended to  
5 increase the amount of the rent increase sought by the landlord, the landlord shall serve on the  
6 tenant a legal notice of the proposed rent increase, amending any prior notice if necessary. If the  
7 initial petition is amended to decrease the amount of the rent increase sought by the landlord and/or  
8 to add factual information, no such further notice need be given, unless the landlord has not  
9 provided any notice up until that point.

10 If, after obtaining further information, the Board determines that the proposed rent  
11 increases are not justified, the Board shall send a notice to the landlord and the tenant  
12 administratively (and provisionally) denying the petition and explaining the basis for denial. The  
13 notice shall also advise the landlord of his or her right to an arbitration hearing on the comparables  
14 petition and that unless the landlord, within 30 calendar days of the mailing of the notice, elects in  
15 writing to have a hearing, the right to a hearing shall be deemed waived. In the event that the  
16 hearing is waived by the landlord, a hearing officer shall promptly issue a decision denying the  
17 petition. The decision shall include a copy of the comparables petition and a copy of the notice of  
18 the administrative and provisional denial, which shall constitute the findings and conclusions of the  
19 hearing officer.

20 In the case of a Newly Covered Unit as to which the landlord requested and  
21 received from the tenant a rent increase during the period from May 1, 1994, until and including  
22 December 21, 1994, the granting of a comparables petition shall not derogate any right of the  
23 tenant to a rent refund or offset mandated by Proposition I.

24 (6) Calculation of Allowable Rent Increases For Purposes of Subsection (3)(C).

25 For purposes of subsection (e)(3)(C) above, determination of the rent that the  
26 landlord could have charged had the unit been under the jurisdiction of the Rent Ordinance since  
27 April 1982, shall be calculated as follows: (i) first determine the earliest rent for the existing tenancy  
28 on or after April 1, 1982; (ii) beginning with April 1, 1983, or one year after the commencement of the

1 existing tenancy, whichever is earlier, multiply the allowable annual rent increase percentage  
2 published by the Board against the earliest rent the landlord can establish for the existing tenancy  
3 or after April 1, 1982; (iii) on a compounded basis, add subsequent allowable annual rent increases  
4 as published by the Board; and (iv) from the dollar amount of the total allowable increases,  
5 subtract the dollar amount of any actual rent increases imposed during the applicable period. For  
6 purposes of this subsection (6), any actual individual rent increase that was imposed by a landlord  
7 (or his or her predecessors) on a Newly Covered Unit which would have exceeded the allowable  
8 limits had the unit been subject to the Rent Ordinance shall not be deemed "null and void" within  
9 the meaning of Section 4.10 of these Rules and Regulations and Section 37.3(b)(5) of the Rent  
10 Ordinance.

11 (7) Maximum Rent Increase.

12 Except in extraordinary circumstances, which shall include, without  
13 limitation, the loss of a fair and reasonable return on the subject property, to be determined by the  
14 Board on appeal, no rent increase approved under this Section 6.11(d) shall exceed ten (10%) of  
15 the tenant's base rent in any given year. A landlord may accumulate any approved rent increase  
16 which exceeds this amount and impose the increase in subsequent years subject to the ten  
17 percent (10%) limitation of this subsection. The limitation imposed in this subsection shall not in  
18 any way limit the right of a landlord to impose any other rent increase allowed or approved in  
19 accordance with the Rent Ordinance or these Rules and Regulations.

20 (8) Imposition of Approved Rent Increase.

21 Nothing in this Section 6.11(d) shall require an owner of a Newly  
22 Covered Unit to impose any rent increase approved under this Section at any particular time after  
23 approval. Such an owner may impose any such rent increase at any time after the filing of a  
24 petition under this Section 6.11(d) upon giving proper 30 days notice.

25 (9) Proper Termination of The Tenancy.

26 For Newly Covered Units which became vacant on or after May 1,  
27 1994, and which were relet prior to December 22, 1994, a Proper Termination of the Tenancy shall  
28 be deemed to have occurred if the tenant vacated the tenancy either (a) voluntarily, i.e., without

1 any coercion or improper conduct (e.g., retaliation) by the landlord or (b) as a result of an eviction  
2 that would have qualified as just cause under Sections 37.9(a)(1) thru (7) and (9) thru (12) of the  
3 Rent Ordinance.

4 (10) Severability

5 Each of the provisions of this Section 6.11(d) shall be deemed to be  
6 severable. If any provision of this Section 6.11(d) or the application of any provision to any  
7 person or circumstance is held invalid, such invalidity shall not affect the remaining provisions of  
8 this Section which can be given effect without the invalid provision.

9 (11) Limited Scope.

10 This Section 6.11(d) shall apply only to Newly Covered Units.

11 (12) Landlord Election.

12 The petition described in this Section 6.11(d) is not the exclusive  
13 means by which a landlord of a Newly Covered Unit may seek a rent increase based on a rents  
14 for comparable units. Such a landlord may elect instead to file a petition under Sections 6.11(a) thru  
15 (c) in the normal course.

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## **ADD NEW SECTION TO RULES and REGULATIONS**

## Section 6.11 Comparables

(Amended February 28, 1984, August 9, 1989, August 29, 1989)

(a) (a) The Provisions of this Section 6.11 shall apply only in extraordinary circumstances, including but not limited to: situations where because of a special relationship between the landlord and the tenant, or through fraud, mental incompetency, or some other reason, the initial rent on a unit was set very low or the rent was not increased or was increased only negligible amounts during the tenancy. (b) For Newly Covered Units Only, extraordinary circumstances shall be found to exist where the landlord established that he or she purchased the building prior to November 8, 1994 in reliance on unit rents that were required to be lowered to May 1, 1994 levels by Section 37.12, including situations in which the building was purchased on or after September 1, 1994 and rents were not increased prior to November 8, 1994 but the landlord shows he or she purchased the building relying upon an ability to increase rents that is now prohibited by Section 37.12.

(b) A rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operation and maintenance expenses as limited in Section 6.10 above, if it is established that the rent for the unit is significantly below those of comparable units in the same general area as defined in Section 6.11(c) below. A rent increase may be granted pursuant to this Section 6.11 only one time in the life of the unit. If a rent increase is granted pursuant to this Section 6.11, the increase shall preclude the imposition of all annual rent increases, banked increases, and operating and maintenance increases that the landlord could have imposed prior to the effective date of the rent increase imposed pursuant to this Section.

(c) (c) The length of occupancy of the current tenant, size and physical condition, and services paid for by the tenant are important factors (though not the exclusive ones) in determining whether or not a unit is "comparable" to another, as the term "comparable" is used in the Ordinance and in those Rules. Evidence of reasonably comparable units is required; however, "perfect" comparability is not required. The issue of "rent for comparable units" may be

1 raised by a landlord or a tenant.

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1                   **OTHER PROPOSED AMENDMENTS TO RULES and REGULATIONS**

2                   **ADD NEW SECTION 4.10(d) TO RULES AND REGULATIONS**

3                   (d) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent  
4                   Ordinance, the transition period shall be from May 1, 1994, through and including December 21,  
5                   1994. Thus, any Newly Covered Unit that was vacated on or after May 1, 1994, vacant on  
6                   December 22, 1994, and relet subsequently, shall not be subject to the rent rollback and refund  
7                   provisions of Section 37.12 of the Rent Ordinance, provided that the unit was vacated as a  
8                   result of a Proper Termination of the Tenancy, as defined in Section 6.11(d)(9) of these Rules  
9                   and Regulations.

10                   **ADD NEW SECTION 6.10(i) TO RULES AND REGULATIONS**

11                   (i) Special Provision For Owners of Newly Covered Units, as defined by Section  
12                   37.12 of the Ordinance

13                   Owners of Newly Covered Units, as defined by Section 37.12 of the Rent  
14                   Ordinance, may petition the Board for a rent increase based on increased operating and  
15                   maintenance expenses provided that all Year 2 expenses were incurred after December 21,  
16                   1994. Such petitions shall be filed and decided in accordance with the rules and procedures set  
17                   forth in Part 6 of these Rules and Regulations.

18                   **ADD NEW SECTION 6.14(e) TO RULES AND REGULATIONS**

19                   ***OPTION 1:***

20                   (e) For Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, a  
21                   new co-tenant shall be considered a tenant as defined in subsection (a) above unless the  
22                   landlord gives the new co-tenant written notice that she/he is not considered a tenant under  
23                   subsection (a) above, within 6 months of the effective date of this regulation, or \_\_\_\_\_.  
24                   This applies only to tenancies which commenced prior to the effective date of this regulation, or  
25                   \_\_\_\_\_. For tenancies which commenced subsequent to the effective date of this  
26                   regulation, or \_\_\_\_\_, the 60-day notice requirement contained in subsection (d)  
27                   above shall apply. A landlord may comply with subsection (c) and this subsection (e)  
28                   simultaneously.

### **OPTION 2:**

(e) Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent  
Ordinance, had no reason to notify a new co-tenant that he or she was not considered an  
"original tenant" as defined in subsection (a) above, prior to the passage of Proposition I in  
November 1994. Therefore, for these Newly Covered Units only, the time period for the  
notification requirements contained in subsection (d) above shall be extended to 6 months from  
the effective date of this Regulation, or \_\_\_\_\_. This applies only to tenancies which  
commenced prior to the effective date of this regulation, or \_\_\_\_\_. For tenancies which  
commenced subsequent to the effective date of this regulation, or \_\_\_\_\_, the 60-day notice  
requirement contained in subsection (d) above shall apply. A landlord may comply with  
subsection (c) and this subsection (e) simultaneously.

## ADD NEW SECTION 7.10(d) TO RULES AND REGULATIONS

(d) Special Provision For Owners of Newly Covered Units, as defined by Section 37.12 of the Ordinance

Owners of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board to pass through the cost of capital improvements, rehabilitation and/or energy conservation work in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations, provided the work for which certification is sought was completed on or after May 1, 1994.

**ADD NEW SECTION 10.10(e) TO RULES AND REGULATIONS**

(e) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the earliest permissible effective date for any rent decrease allowed under this Section 10.10 shall be December 22, 1994; provided, however, that the initial base rent, as defined by Section 37.12(a) of the Rent Ordinance, shall include all housing services provided or reasonably expected on the initial base rent date, or as of the commencement of the tenancy, whichever is later.



FRANK M. JORDAN  
MAYOR

MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, January 31, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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I. Call to Order

President Coffino called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: B. Becker; Coffino; Gruber; How; Lightner; Nash; Schlichtmann; Steane.

Commissioners not Present: L. Becker; Marshall.  
Staff Present: Grubb; Wolf.

Commissioner Schlichtmann went off the record at 10:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 3 and January 10, 1995.  
(Lightner/Coffino: 5-0)

IV. Public Hearing

A Public Hearing on proposed changes to the Rules and Regulations pertaining to increases for Newly Covered Units under Ordinance Section 37.12 commenced at 5:55 p.m. and concluded at 8:40 p.m. Thirty landlords and sixteen tenants spoke in general about their desires regarding the implementation of Proposition I; very few individuals addressed the specifics of the proposals that had been put out for public hearing. For the most part, the tenants who spoke questioned the need for implementing any special Rules for Prop. I units, and stated their belief that Prop. I units should be treated like any other units under the Ordinance. Tenants also spoke to their fears that low and moderate-income tenants will be displaced by the granting of increases to market levels, and reminded the Commissioners of their duty to preserve the City's affordable housing stock.

The landlords who spoke addressed what they see as fundamental fairness issues; that Prop. I landlords should come into jurisdiction on a "level playing field" and not be in a worse position than if they had been under rent control. Many of these landlords also maintained that the "special relationship" they had with their tenants due to living in such close proximity would result in rents being kept at lower than market levels.



V. Communications

The Commissioners received several communications regarding Prop. I issues.

VI. Old Business

Proposition I: Regulations Pertaining to Increases for Newly Covered Units under Ordinance Section 37.12

The Commissioners discussed many of the issues raised by members of the public at the Public Hearing and at previous meetings, and the draft proposals distributed by President Coffino and other members of the Board. The following Rules changes were passed, effective February 1, 1995:

MSC: To add new Section 7.10(d) to the Rules and Regulations, effective February 1, 1995, which shall read as follows:

Section 7.10 Filing

(d) Special Provision for Owners of Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board to certify the cost of capital improvements, rehabilitation and/or energy conservation work in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations and Section 37.7 of the Ordinance.

(Lightner/Gruber: 5-0)

MSC: To add new Section 6.10(i) to the Rules and Regulations, effective February 1, 1995, which shall read as follows:

Section 6.10 Operating and Maintenance

(i) Special Provision for Owners of Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board for a rent increase based on increased operating and maintenance expenses as provided for in Section 6.10(a). However, no rent increase shall be approved if the operating and maintenance expense increase, plus any increases actually imposed during year one and year two, would in the aggregate be in excess of what could have been approved had

the unit been under the jurisdiction of the Rent Ordinance during the applicable two-year period and a 7% increase based on operating and maintenance expenses approved.

(Lightner/Gruber: 5-0)

MSC: To add new Section 4.10 to the Rules and Regulations, effective February 1, 1995, which shall read as follows:

Section 4.10 Notice

(d) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the transition period shall be from May 1, 1994, through and including December 21, 1994.

(Lightner/Coffino: 5-0)

MSC: To add new Section 6.11(d) to the Rules and Regulations, effective February 1, 1995, which provides for special provisions for landlords of newly covered units to obtain rent increases based on comparables; of the versions put out for public hearing, to adopt Version A without Section 7, which provided for the phase-in of approved rent increases at a rate of no more than 10% per year.

(Coffino/Gruber: 3-2; B. Becker, Steane dissenting)

VII. Calendar Items

February 7, 1995

4 appeal considerations

Old Business: Ordinance & Rules Changes

- A. Rules and Regulations Section 1.15(c)
- B. Proposition I

February 14, 1995

Ordinance & Rules Changes: Proposition I

VIII. Adjournment

President Coffino adjourned the meeting at 11:45 p.m.



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City and County of San Francisco



JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

Residential Rent Stabilization  
and Arbitration Board

FRANK M. JORDAN  
MAYOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, February 7, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

MAR 8 1995

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I. Call to Order

President Coffino called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: B. Becker; Coffino; Gruber; Lightner; Nash; Steane.

Commissioners not Present: L. Becker; Marshall; Schlichtmann.  
Staff Present: Gartzman; Grubb; Wolf.

Commissioner How appeared on the record at 6:00 p.m.

III. Consideration of Appeals

A. 5235 Diamond Heights Blvd. #125 P001-88R

The landlord's petition for certification of capital improvement costs for seventy-three units was granted, in part, by the hearing officer. One tenant appeals the decision on the basis of financial hardship.

MSC: To accept the appeal and remand the case to a hearing officer for a hearing on the issue of the tenant's financial hardship.  
(Steane/B. Becker: 5-0)

B. 2450 Lake St. #2 P001-47A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$1,510.00 due to substantial leaks in the bathroom ceiling; blocked plumbing; a defective refrigerator; an unsecured mailbox; and pest infestation in the unit. On appeal, the landlord alleges that the tenant failed to provide him with notice of the problems; and provides evidence that some of the code violations have been abated.

MSC: To deny the appeal except to remand the case to the hearing officer on the record, if possible, to determine the proper termination date for the rent reductions.  
(Coffino/Steane: 4-1; Gruber dissenting)

C. 950 Pine St. #309

P001-48A

The landlord's appeal was filed two days late because he claims not to have received a copy of the Decision of Hearing Officer. The Notice of Hearing and Decision were, apparently, sent to an incorrect address.

MSC: To find good cause for the late filing of the appeal.  
(Lightner/Gruber: 5-0)

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$722.50 due to a malfunctioning refrigerator and inoperative smoke detector. The landlord failed to appear at the hearing and alleges on appeal that the Notice of Hearing was mailed to an incorrect address and he did not receive it.

MSC: To accept the appeal and remand the case for a new hearing.  
(Lightner/Gruber: 5-0)

D. 1515 Chesnut St. #4

P001-49A

The landlord's petition for certification of capital improvement costs was granted, for the most part, by the hearing officer. The portion of the petition requesting an increase due to an alleged increase in operating and maintenance expenses was denied due to the landlord's failure to prove the aggregate of expenses for the building over the requisite two-year period. On appeal, the landlord asserts that the new owner's debt service and property tax expenses alone should be sufficient to justify the maximum 7% increase.

MSC: To deny the appeal. (Steane/B. Becker: 5-0)

#### IV. Communications

The Commissioners received the following communications:

- A. A letter concerning the implementation of Proposition I.
- B. An article written by Attorney Randy Shaw in the Bay Guardian.

#### V. Director's Report

Executive Director Grubb informed the Commissioners that the Mayor's Office is reviewing the Supplemental Budget Request submitted in anticipation of the increased workload that will result from the passage of Proposition I. The Supplemental will now be forwarded to the Board of Supervisors for approval. He also apprised them of a problem in determining the proper rate of imputed

interest for 10-year capital improvement costs, as no 10-year T-notes were purchased on January 31, 1995.

## VI. Old Business

The Commissioners continued their discussion of Rules changes adopted to implement Proposition I at the January 31, 1995 meeting. Commissioner Coffino informed the Commissioners present at the meeting that he is re-considering the idea of a "cap" on rent increases based on comparable rents pursuant to new Section 6.11(d). Commissioner Coffino initiated a discussion of a 3-year "cap": with the approved amount limited to no more than 10% of the petition base rent in the first two years; and the balance, or a portion thereof, to be imposed in the third year after approval. The Commissioners decided to meet again on February 14th in order to continue discussion of this and other outstanding issues related to the implementation of Proposition I.

Two Rules changes were adopted by the Board, as follows:

MSC: To amend new Section 6.11(d) of the Rules and Regulations as follows below, effective February 1, 1995 (new language in bold): .

(d) Special Provisions for Owners of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance

The following rules shall apply to petitions filed by landlords of newly covered units, as defined by Section 37.12 of the Rent Ordinance ("Newly Covered Units"), for rent increases based upon rents for comparable units. **In order to comply with applicable law, including Vega v. City of West Hollywood (1990) 223 Cal. App. 3d 1342, a rent increase during a tenancy of a Newly Covered Unit may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that the initial base rent for the Newly Covered Unit, as defined by Section 37.12(a) of the Rent Ordinance, is substantially below general market conditions, as defined below.**

(Coffino/Gruber: 5-0)

MSC: To add new Section 10.10(e) to the Rules and Regulations, effective February 7, 1995, which shall read as follows:

(e) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the earliest permissible date for any rent decrease allowed under this Section 10.10 shall be December 22, 1994; provided, however, that the initial base rent, as defined by Section 37.12(a) of the

Rent Ordinance, shall include all housing services provided or reasonably expected on the initial base rent date, or as of the commencement of the tenancy, whichever is later.

(Gruber/Steane: 5-0)

VII. Remarks from the Public

A Proposition I landlord stated that he had attempted to file a comparables petition under new Section 6.11(d) of the Rules and Regulations and had not been permitted to do so by a staff person at the Rent Board. Mr. William Trumbo addressed the Commissioners regarding the problem of evictions for relatives of domestic partners in Newly Covered Units under Proposition I.

VIII. Calendar Items

February 14, 1995

Ordinance & Rules Changes:

- A. Rules & Regulations Section 1.15(c)
- B. Proposition I

February 21 & 28, 1995 - NO MEETING

IX. Adjournment

President Coffino adjourned the meeting at 9:25 p.m.

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 5:30 p.m.,  
February 14, 1995

25 Van Ness Avenue, #320

**PLEASE NOTE CHANGED MEETING LOCATION**

**AGENDA**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Communications
- VI. Director's Report
- VII. Old Business

Ordinance and Rules Changes:

- A. Rules Section 1.15(c) Concerning Homes for the Aged - Amend to Conform with Recently Amended Rent Ordinance Section 37.2(p)(3)
- B. Rules Section 1.15(e) Concerning the Definition of Rental Units - Amend to Conform with Recently Enacted Rent Ordinance Section 37.12
- C. Proposition I: Regulations Pertaining to Increases for Newly Covered Units under Ordinance Section 37.12

- IV. Remarks from the Public (cont.)
- VIII. New Business
- IX. Calendar Items
- X. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, February 14, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 320

I. Call to Order

President Coffino called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: B. Becker; L. Becker; Coffino; Gruber;  
Marshall; Nash; Schlichtmann.

Commissioners not Present: Lightner; Steane.

Staff Present: Grubb; Wolf.

Commissioner How appeared on the record at 6:00 p.m.

III. Communications

The Commissioners received a letter from Attorney Nancy Lenvin stating her belief that amendments to new Rules and Regulations Section 6.11(d) should not be entertained at this meeting, as insufficient notice had been provided to the public. The Board also received a copy of an article regarding the recently enacted regulations pertaining to the implementation of Proposition I from the February 8, 1995 issue of the San Francisco Weekly.

IV. Old Business

A. Proposition I: Regulations Pertaining to Increases for Newly Covered Units under Ordinance Section 37.12

The Commissioners continued their discussion of outstanding issues related to the implementation of Proposition I and passed the following changes to the Rules and Regulations:

MSC: To add new Section 6.14(e) to the Rules and Regulations, effective February 14, 1995, which shall read as follows:

(e) For Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord has not accepted the new co-tenant as a tenant pursuant to applicable law and the



landlord gives the new co-tenant written notice that she/he is not considered a tenant under subsection (a) above, within 6 calendar months of the effective date of this regulation (February 14, 1995), up to and including August 13, 1995. This applies only to tenancies which commenced prior to the effective date of this regulation. For tenancies which commenced subsequent to the effective date of this regulation, the 60-day notice requirement contained in subsection (d) above shall apply. A landlord may comply with subsection (c) and this subsection (e) simultaneously.

(Marshall/B. Becker: 5-0)

MSC: To adopt minor clerical corrections to new Section 6.11(d) of the Rules and Regulations and to amend new Section 6.11(d)(1) of the Rules and Regulations, effective February 1, 1995, to read as follows (new language in bold):

(1) Extraordinary circumstances

**In light of the special relationship that exists between landlords of Newly Covered Units and their tenants, and in light of the passage of Proposition I in November 1994**, for purposes of Section 6.11(a), "extraordinary circumstances" shall be deemed to exist for all landlords of Newly Covered Units for which the landlord seeks a rent increase based upon rents for comparable units, provided the landlord meets either one of the following two requirements:

(Coffino/Gruber: 4-1; Marshall dissenting)

MSC: To add new Section 4.10(d) to the Rules and Regulations, effective February 1, 1995, which shall read as follows (new language in bold):

Section 4.10 Notice

(d) With respect to Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, the transition period shall be from May 1, 1994, through and including December 21, 1994 ("Transition Period"). Thus, any tenant of a Newly Covered Unit whose tenancy commences on or after December 22, 1994, shall not be entitled to the rent rollback and refund provisions of Section 37.12 of the Rent Ordinance, provided that the unit was vacated during the Transition Period as a result of a Proper Termination of the Tenancy, as defined in Section 6.11(d)(8) of these Rules and Regulations. In addition, any tenant of a Newly Covered Unit vacant on May 1, 1994 and rented during the "Transition Period" shall not be entitled to the rent rollback



**and refund provisions of Section 37.12 of the Rent  
Ordinance.**

(How/Gruber: 5-0)

**B. Rules and Regulations Section 1.15(c): Definition of "Homes for the  
Aged"**

In order to comply with recently amended Rent Ordinance Section 37.2(p)(3), concerning the definition of "homes for the aged" which are exempt from the jurisdiction of the Ordinance, the Board passed the following motion:

MSC: To amend Rules and Regulations Section 1.15(c), effective January 30, 1995, to read as follows (new language in bold):

**Section 1.15 Rental Units**

"Rental Unit" means a residential dwelling unit in the City and County of San Francisco and all housing services, privileges, furnishings including parking facilities supplied in connection with the use or occupancy of such unit which is made available for occupancy by a tenant in consideration of the payment of rent. The term does not include:

(c) housing accommodations in any hospital, convent, monastery, extended care facility, asylum, **residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3**, or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;

(How/Gruber: 5-0)

**V. Remarks from the Public**

A Proposition I landlord observed that a "cap" on rent increases based on comparable rents pursuant to new Section 6.11(d) should not apply to all tenants, as this individual has a tenant residing in her building whose income greatly exceeds her own.

**VI. Calendar Items**

**February 21 & 28, 1995 - NO MEETINGS**

**March 7, 1995**

2 Appeal Considerations



Old Business: Ordinance & Rules Changes

A. Proposition I

B. Rules & Regulations Section 1.15(e)

VII. Adjournment

President Coffino adjourned the meeting at 8:00 p.m.



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, March 7, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

Commissioner Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Gruber; Lightner; Marshall; Nash;  
Schlichtmann; Steane.

Commissioners not Present: L. Becker; How.

Staff Present: Gartzman; Grubb; Wolf.

Commissioner B. Becker appeared on the record at 5:40 p.m.; President Coffino arrived at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 31, February 7 and  
February 14, 1995.  
(Lightner/Gruber: 5-0)

IV. Remarks from the Public

Attorney Nancy Lenvin appeared on behalf of her client, William Hoffman, and submitted a letter asking that the Board re-visit the issue of vacancy control during the "Transition Period" of May 1, 1994 through December 22, 1994 pursuant to the provisions of Ordinance Section 37.12 (Proposition I). Mr. Hoffman suffered a vacancy in one of his rental units in May and spent approximately \$50,000 on refurbishing costs, but subsequently was required to roll the rent back to the May 1994 level.

V. Consideration of Appeals

A. 574 Hickory St. #A

P001-50A

The tenant's petition alleging a substantial decrease in housing services was granted, and the landlord was found liable to the tenant in the amount of \$30.00 per month due to inadequate water pressure in the unit. On appeal, the landlord asserts that the rent reduction should not be granted for a period of time prior to his having been given notice of the problem; and that he believed



the problem had been resolved through the installation of a special shower head, which improved the water pressure at the location where he had originally diagnosed the problem.

MSC: To deny the appeal. (Marshall/B. Becker: 5-0)

IV. Remarks from the Public (cont.)

Four landlords and three tenants addressed the Commission regarding issues related to the implementation of Proposition I. Robert Pender of the Tenants' Network announced a meeting of Northern California Rent Control Advocates at 7:00 p.m. on March 16th at the Legal Aid Society of Alameda County. A member of the San Francisco Apartment Association announced that organization's next meeting, on March 20th at Fort Mason.

V. Consideration of Appeals (cont.)

B. 650 Ellis St. #29

P001-51A

The tenant's petition alleging decreased housing services was granted and the Decision of Hearing Officer on Remand found the landlord to be liable to the tenant in the amount of \$1,267.50 due to serious habitability defects in the unit. On appeal, the landlord alleges that amounts owing by the tenant due to unpaid rent should be offset against sums granted by the hearing officer.

MSC: To deny the appeal except to remand the case to the hearing officer for a technical correction regarding the months when no rent was paid. (Lightner/Gruber: 5-0)

VI. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following communications:

A. Several articles and letters pertaining to the implementation of Proposition I.

B. A copy of a lawsuit filed against the Board by the S.F. Tenants Union challenging the legality of recently adopted Rules and Regulations Section 6.11(d) (S.F. Tenants Union v. S.F. Rent Board, Superior Court No. 967309).

C. The Commissioners' Conflict of Interest Forms, which are due on April 1, 1995.

VII. Director's Report

Executive Director Grubb reported as follows:



A. Supervisor Bierman's proposed legislation affecting the Board's rule-making for Newly Covered Units under Proposition I will go before the Housing and Land Use Committee at 12:30 p.m. on March 20, 1995. If passed by the Committee, the legislation will go before the full Board of Supervisors at their meeting that same afternoon. After discussion, the Commissioners agreed to forward a letter to Supervisor Bierman, which will be drafted by Commissioner B. Becker, objecting to the process by which this legislation came to be introduced, but taking no position as to the merits.

B. 37 petitions have been filed by landlords seeking rent increases based on comparables for Newly Covered Units under recently enacted Rules and Regulations Section 6.11(d).

C. Two pieces of legislation proposed by Supervisor Migden, one pertaining to notification to Proposition I landlords and tenants and the other purporting to extend eviction rights under Ordinance Section 37.9(a)(8) to domestic partners, will be considered by the Housing and Land Use Committee on Thursday, March 9th at 10:00 a.m.

### VIII. Old Business

The Commissioners continued their discussion of outstanding issues related to the implementation of Proposition I and passed the following changes to the Rules and Regulations:

MSC: To delete Section 1.15(e) from the Rules and Regulations, and move the language previously contained therein, which defines what constitutes an owner's "principal place of residence", to Rules and Regulations Section 12.14. (Marshall/Lightner: 5-0)

The above change conforms the Rules and Regulations to the recent change in the Ordinance brought about by the passage of Proposition I, in removing the exemption language for small, owner-occupied buildings. However, "principal place of residence" of an owner is still defined for purposes of owner-occupancy eviction.

MSC: To rescind new Section 7.10(d) of the Rules and Regulations as passed on January 31, 1995, and which was effective on February 1, 1995. (Marshall/B. Becker: 4-1; Lightner dissenting)

9MSC: To add new Section 7.10(d) to the Rules and Regulations, effective February 1, 1995, which shall read as follows:

### Section 7.10 Filing



(d) Special Provision for Landlords of Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined by Section 37.12 of the Rent Ordinance, may petition the Board to certify the cost of capital improvements, rehabilitation and/or energy conservation work in accordance with, and subject to, the rules and procedures set forth in Part 7 of these Rules and Regulations and Section 37.7 of the Ordinance provided that the work for which certification is sought was completed on or after May 1, 1994; provided, however, that any tenant of a Newly Covered Unit entitled to the rent rollback and refund provisions of Ordinance Section 37.12 shall not be subject to Rules and Regulations Section 7.12(b) if: (1) the rent increase imposed after May 1, 1994 and before December 22, 1994 was based, in whole or in part, on capital improvement costs ; or (2) the tenant commenced occupancy after May 1, 1994 and before December 22, 1994 at a base rent higher than the initial base rent for the Newly Covered Unit, as defined in Ordinance Section 37.12(a), and the higher rent was due, in whole or in part, to capital improvement costs. The landlord shall have the burden of proving that Rules and Regulations Section 7.12(b) is inapplicable.

(Marshall/B. Becker: 3-2; Gruber, Lightner dissenting)

MSC: To add new Section 6.11(d)(7) to the Rules and Regulations, effective February 1, 1995, which shall read as follows:

Subject to applicable notice requirements, no rent increase under this Section 6.11(d) shall exceed 10% of the tenant's petition base rent during each of the first and second twelve-month periods. The landlord may accumulate any approved increase which exceeds this amount and impose all or a portion of the accumulated increase in subsequent years without limitation. (For example, assume the landlord filed a petition under Section 6.11(d) on March 15, 1995 and gave the tenant legal notice of a \$200.00 proposed rent increase on March 30, 1995, to take effect on May 1, 1995. At the time the petition was filed, the tenant's lawful base rent was \$600.00. Assuming the proposed rent increase was approved by the Rent Board, the landlord could impose a \$60.00 base rent increase [10% of \$600.00] on May 1, 1995. On May 1, 1996, the landlord could impose another \$60.00 base rent increase [10% of \$600.00]. On May 1, 1997, the landlord could impose an \$80.00 base rent increase, which represents the remainder of the approved rent increase.) The hearing officer shall have the discretion to modify or eliminate the above schedule and percentage limitations should the landlord demonstrate the existence of extraordinary circumstances of the landlord justifying such relief. The limitations imposed in this subsection shall not in any way limit the right of a landlord to impose any other rent increase allowed or approved in accordance with the Rent Ordinance or these Rules and Regulations.



(Marshall/B. Becker: 3-2; Gruber, Lightner dissenting)

Other outstanding issues and proposed Rules changes related to the implementation of Proposition I were continued to the March 14th meeting.

IV. Remarks from the Public (cont.)

Ten landlords and one tenant commented on issues pertaining to the implementation of Proposition I, particularly on the changes to the Rules adopted at this evening's meeting.

IX. Calendar Items

March 14, 1995

Executive Session: Litigation

Old Business: Proposition I

March 21, 1995

3 appeal considerations

Old Business: Proposition I

March 28, 1995 - NO MEETING

X. Adjournment

President Coffino adjourned the meeting at 8:50 p.m.



## City and County of San Francisco



POST

Residential Rent Stabilization  
and Arbitration BoardFRANK M. JORDAN  
MAYORMICHAEL COFFINO  
PRESIDENTLARRY B. BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.

March 14, 1995

25 Van Ness Avenue, #70, Lower Level  
PLEASE NOTE CHANGED MEETING TIMEJOSEPH GRUBB  
EXECUTIVE DIRECTOR

## AGENDA

BARRIE BECKER  
 DAVID G. GRUBER  
 MAMIE HOW  
 MERRIE T. LIGHTNER  
 POLLY MARSHALL  
 KATHERINE NASH  
 JILL SCHLICHTMANN  
 CATHERINE STEANE

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Executive Session

Litigation - Government Code Section 54956.9(a)

San Francisco Tenants Union v. S.F. Rent Board

(Superior Court Case No. 967309)

Hislop v. S.F. Rent Board (Superior Court Case No. 961-976)

- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - Proposition I: Regulations Pertaining to Increases for Newly Covered Units under Ordinance Section 37.12
- IX. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment





# City and County of San Francisco



# Residential Rent Stabilization and Arbitration Board

MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, March 14, 1995 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

MAR 23 1995

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### I. Call to Order

President Coffino called the meeting to order at 6:10 p.m.

### II. Roll Call

Commissioners Present:	L. Becker; Coffino; How; Lightner; Marshall; Nash; Schlichtmann.
Commissioners not Present:	B. Becker; Gruber; Steane.
Staff Present:	Gartzman; Grubb; Wolf.

### III. Approval of the Minutes

MSC: To approve the Minutes of March 7, 1995.  
(Coffino/Marshall: 4-0)

### IV. Remarks from the Public

A member of the public inquired as to whether the Commissioners were going to discuss a letter from Attorney Nancy Lenvin, asking that the Board re-visit the issue of vacancy control during the "Transition Period" of May 1, 1994 through December 22, 1994 pursuant to the provisions of Ordinance Section 37.12 (Proposition I). This issue will be calendared for next week's meeting.

### V. Executive Session

The Board went into Executive Session with Deputy City Attorney Jay Cumming pursuant to Government Code Section 54956.9(a) from 6:20 to 8:35 p.m. to discuss the cases of Hislop v. Rent Board (Superior Court Case No. 961-976) and San Francisco Tenants Union v. S.F. Rent Board (Superior Court Case No. 967309).

### VI. Old Business

The Commissioners continued their discussion of outstanding issues related to the implementation of Proposition I and passed the following change to the Rules and Regulations:



MSC: To rescind new Section 6.10(i) of the Rules and Regulations as passed on January 31, 1995, and add new Section 6.10(i) to the Rules and Regulations effective February 1, 1995, which shall read as follows:

Section 6.10 Operating and Maintenance

(i) Special Provision for Landlords of Newly Covered Units, as defined by Section 37.12 of the Ordinance

Landlords of Newly Covered Units, as defined in Section 37.12 of the Rent Ordinance, may petition the Board for a rent increase based on increased operating and maintenance expenses provided that all Year 2 expenses were incurred on or after May 1, 1994. Where at least some of the landlord's Year 2 expenses were incurred during the period May 1, 1994 to December 22, 1994, the requirement that tenants be in residence during Year 1 shall not be applicable to tenants who commenced occupancy after May 1, 1994 and before December 22, 1994 and who were entitled to the rent rollback and refund provisions of Ordinance Section 37.12.

(Marshall/B. Becker: 3-2; Lightner, Nash dissenting)

The Commissioners also approved draft petition forms developed by staff for landlords seeking rent increases based on comparables pursuant to new Section 6.11(d) of the Rules and Regulations, which will be disseminated to the public.

VII. Communications

The Commissioners finalized a letter that will be sent from the Board to Supervisor Bierman regarding legislation she is introducing that will affect the Board's rule-making for Newly Covered Units under Proposition I. The letter will state the Board members' objections to the process by which this legislation came to be introduced, but taking no position as to the merits.

IV. Remarks from the Public (cont.)

Al Goodwin expressed his disappointment at the Board's reversal of position on several Rules changes related to Proposition I at the March 7th meeting, stating his opinion that there had been inadequate public notice that these issues might be re-examined.

VIII. Calendar Items

March 21, 1995

3 appeal considerations

Old Business: Proposition I

Executive Session: Litigation

March 28, 1995 - NO MEETING

IX. Adjournment

President Coffino adjourned the meeting at 9:15 p.m.



## City and County of San Francisco



1/2/95  
MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
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CATHERINE STEANE

Residential Rent Stabilization  
and Arbitration Board

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,  
March 21, 1995

25 Van Ness Avenue, #70, Lower Level

## AGENDA

DEPOSITORY LIBRARY  
DOCUMENTS DEPT.

MAR 17 1995

MAR 17 1995

SAN FRANCISCO  
SAN FRANCISCO  
PUBLIC LIBRARY  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. Stonestown P001-89R & P001-90R  
Two tenants appeal the decision certifying capital improvement costs on the basis of financial hardship.
  - B. 55 Polk St. P001-52A  
Landlord appeal of a decision denying their petition for extension of time.
  - C. 1580 Beach St. #101 P001-91R  
Tenant appeal of a decision granting a rent reduction due to the loss of quiet enjoyment of the unit.
- VI. Communications
- VII. Director's Report
- VIII. Executive Session

Litigation - Government Code Section 54956.9(a)

San Francisco Tenants Union v. S.F. Rent Board  
(Superior Court Case No. 967309)
- IX. Old Business

(415) 554-9550 (OFFICE AND 24-HOUR INFO LINE)

FAX (415) 554-9562



25 Van Ness Avenue, #320

San Francisco, CA 94102-6033





Page 2 of the Agenda of March 21, 1995

- A. Proposition I: Regulations Pertaining to Increases for Newly Covered Units under Ordinance Section 37.12 - Subject to Further Amendment, including Possible Amendments to Rules and Regulations Section 6.11
- B. Proposition I: Vacancy Control during the "Transition Period"
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment





MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, March 21, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.  
MAR 28 1995  
SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

President Coffino called the meeting to order at 5:43 p.m.

II. Roll Call

Commissioners Present: L. Becker; Coffino; Gruber; Nash;  
Schlichtmann; Steane.

Commissioners not Present: Marshall.  
Staff Present: Gartzman; Grubb; Wolf.

Commissioner How appeared on the record at 5:45 p.m.; Commissioner Lightner arrived at 5:47 p.m.; and Commissioner B. Becker appeared at 7:05 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 14, 1995.  
(L. Becker/Coffino: 3-0)

IV. Remarks from the Public

Three landlords affected by Proposition I addressed the Board and inquired as to the status of regulations recently enacted by the Commission in light of the Bierman legislation. A great deal of displeasure was expressed at the fact that tenants in Prop I buildings whose landlords had filed petitions for rent increases under new Rules Section 6.11(d) had been contacted by individuals from the Tenants Union and urged to attend the Housing and Land Use Committee hearing on the Bierman legislation.

Attorney Nancy Lenvin submitted a letter and addressed the Commissioners regarding the issue of the retrospective application of Proposition I. This issue will be discussed at the Board meeting on March 28th.

V. Consideration of Appeals

A. Stonestown

P001-89R & -90R



The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant at 235 Buckingham Way #902 (P001-90R) and remand the case to a hearing officer for a hearing on the issue of financial hardship.  
(Lightner/Steane: 5-0)

MSC: To accept the hardship appeal of the tenant at 55 Buckingham Way #201 and remand the case to a hearing officer to determine whether or not the capital improvement passthrough should be phased in over a longer time period.  
(Lightner/Steane: 5-0)

B. 55 Polk St.

P001-52A

The landlord's petition for extension of time to complete capital improvement or rehabilitation work was denied because the hearing officer found that the landlord had failed to file timely nor prove that the work could not have been commenced earlier, including while some of the tenants were in occupancy in the building. On appeal, the landlord asserts that the issue in this case is whether or not the extension of time request is reasonable, and not whether the nature of the work necessitated having the building vacant; and that the landlord had complied with all applicable procedural requirements.

MSC: To deny the appeal. (Coffino/Steane: 5-0)

C. 1580 Beach St. #101

P001-91R

The tenant's petition alleging a substantial decrease in housing services was granted and the landlord was found liable in the amount of \$50.00 per month for a 5-3/4 month period due to the installation of an electric garage door opener directly underneath the tenant's unit, resulting in the loss of the tenant's quiet enjoyment of the unit. The tenant appeals, alleging that the amount of the rent reduction is inadequate considering the severity of the problem; that there are factual errors in the hearing officer's decision; and that the rent reduction should commence earlier, due to notice of the problem having been given to the landlord.

MSC: To deny the appeal. (L. Becker/Lightner: 5-0)

## VI. Communications

The Commissioners received the following communications:

A. A Rutgers Law Review article regarding the practice of some rent control jurisdictions to allow larger increases for units which had below average rent increases in the years prior to jurisdiction.

B. A copy of the letter sent from the Board to Supervisor Bierman regarding legislation she introduced on March 20th that would affect the Board's rule-making for Newly Covered Units under Proposition I. The letter states the Board members' objections to the process by which this legislation came to be introduced, but takes no position as to the merits.

C. The office workload statistics for the month of February.

D. Several letters from Prop I landlords.

**VII. Director's Report**

Executive Director Grubb reported as follows:

A. The legislation introduced by Supervisor Bierman affecting the Board's rule-making authority for Newly Covered Units under Proposition I was passed by the Housing and Land Use Committee by a 3-0 vote and the full Board of Supervisors by a vote of 7-2. The legislation must go before the Board of Supervisors for a second reading and then may be vetoed by the Mayor.

B. The legislation introduced by Supervisor Migden requiring the Board to notify affected landlords and tenants of the passage of Proposition I was passed by the Board of Supervisors at its first reading.

C. The Commissioners' Conflict of Interest forms are due on April 1st.

**VIII. Old Business**

The Commissioners continued their discussion of outstanding issues related to the implementation of Proposition I. It was agreed that two issues introduced by Attorney Nancy Lenvin, that of vacancy control during the "Transition Period" and retrospective application, would be discussed at the meeting on March 28th. Commissioner Lightner initiated discussion of an alternative approach to increases for Newly Covered Units, which could include a combination of: an automatic percentage increase for "good landlords" who had not raised the rent in several years; capital improvements; operating expenses; and/or comparables increases for new purchasers or "extraordinary circumstances."

**IX. Executive Session**

The Board went into Executive Session with Deputy City Attorney Jay Cumming pursuant to Government Code Section 54956.9(a) from 7:40 to 10:25 p.m. to discuss the case of S.F. Tenants Union v. S.F. Rent Board (Superior Court Case No. 967309).

X. Calendar Items

March 28, 1995

Old Business: Proposition I

Executive Session: Litigation

April 4, 1995

4 appeal considerations

Old Business: Proposition I

Executive Session: Litigation

XI. Adjournment

President Coffino adjourned the meeting at 10:25 p.m.

## City and County of San Francisco



MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

Residential Rent Stabilization  
and Arbitration Board

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.  
March 28, 1995

25 Van Ness Avenue, #70, Lower Level

## AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Executive Session

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MAR 23 1995

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PUBLIC LIBRARY

Litigation - Government Code Section 54956.9(a)  
San Francisco Tenants Union v. S.F. Rent Board  
(Superior Court Case No. 967309)

- VI. Communications
- VII. Director's Report
- VIII. Old Business

## Proposition I (Ordinance Section 37.12):

- A. Vacancy Control during the "Transition" Period"
- B. Retrospective Application
- C. Regulations Pertaining to Increases for Newly Covered Units - Subject to Further Amendment
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





# City and County of San Francisco



# Residential Rent Stabilization and Arbitration Board

FRANK M. JORDAN  
MAYOR

## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

MICHAEL COFFINO  
PRESIDENT

2/95  
LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

Tuesday, March 28, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

APR 4 1995

SAN FRANCISCO  
PUBLIC LIBRARY

### I. Call to Order

President Coffino called the meeting to order at 5:37 p.m.

### II. Roll Call

Commissioners Present: L. Becker; Coffino; Gruber; Marshall; Nash; Steane.

Commissioners not Present: B. Becker; How.  
Staff Present: Grubb; Wolf.

Commissioners Lightner and Schlichtmann appeared on the record at 5:40 p.m.; Commissioner Schlichtmann left the meeting at 7:20 p.m.

### III. Approval of the Minutes

MSC: To approve the Minutes of March 21, 1995 with the following correction: Item B under Communications, regarding a letter sent by the Board, should reflect the fact that the letter was sent to all of the members of the Board of Supervisors, and not just to Supervisor Bierman.  
(Coffino/Gruber: 5-0)

### IV. Communications

The Commissioners received several letters regarding issues related to the implementation of Proposition I.

### V. Director's Report

Executive Director Grubb reminded the Commissioners that their Conflict of Interest forms are due on April 1st, with a \$10.00 per day fine to be imposed thereafter. He also informed them that legislation introduced by Supervisor Bierman, which would affect the Board's rule-making for Newly Covered Units under Proposition I, has been continued for two weeks in hopes of settlement; and that legislation introduced by Supervisor Migden, requiring notification of Prop. I landlords and tenants, was passed on second reading.



VI. Old Business

The Board continued its discussion of various issues related to the implementation of Proposition I. Attorney Nancy Lenvin posed several questions in two letters to the Board, which were addressed by Deputy City Attorney Jay Cumming. Regarding the issue of vacancy control during the "Transition Period" (May 1, 1994 to December 22, 1994), Mr. Cumming stated that it is City Attorney Louise Renne's opinion that the language of Proposition I is vague and ambiguous as to this question. Therefore, since there was no mention of vacancy control in the ballot argument regarding Prop. I, and vacancy control is inconsistent with the Ordinance as a whole, it is Ms. Renne's opinion that Prop. I does not mandate refunds to tenants who paid rents in excess of the rent that was in effect on May 1, 1994 if the new rent was due to the unit having been vacated. As to the issue of the retroactive effects of Prop I, Mr. Cumming stated that the rent refund and rollback provisions of Prop I are so clear that the City Attorney would defend the "will of the people" from any legal challenge. As to the question of vested rights of owners who purchased Prop. I-affected buildings prior to the change in the law, and whether Prop. I is confiscatory, Mr. Cumming stated that these issues would have to be examined on a case-by-case basis. Board President Coffino will write to City Attorney Renne and request that these opinions be put in writing.

VII. Remarks from the Public

A landlord asked if there was a remedy for situations where the rent refunds mandated by Prop. I are greater than the amount that can be petitioned for as a rent increase.

VIII. Executive Session

The Board went into Executive Session with Deputy City Attorney Jay Cumming pursuant to Government Code Section 54956.9(a) from 7:00 to 7:50 p.m. to discuss the case of S.F. Tenants Union v. S.F. Rent Board (Superior Court Case No. 967309).

IX. Calendar Items

April 4, 1995

4 appeal considerations

Old Business: Proposition I

Executive Session: Litigation

April 11, 1995 - NO MEETING

X. Adjournment

President Coffino adjourned the meeting at 7:50 p.m.

# City and County of San Francisco



MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

# Residential Rent Stabilization and Arbitration Board

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, April 4, 1995 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

APR 10 1995

SAN FRANCISCO  
PUBLIC LIBRARY

### I. Call to Order

President Coffino called the meeting to order at 6:10 p.m.

### II. Roll Call

Commissioners Present: L. Becker; Coffino; Gruber; How; Marshall; Nash; Steane.

Commissioners not Present: B. Becker.  
Staff Present: Grubb; Wolf.

Commissioner Schlichtmann appeared on the record at 6:20 p.m.;  
Commissioner Lightner arrived at 6:25 p.m.

### III. Approval of the Minutes

MSC: To approve the Minutes of March 28, 1995.  
(L. Becker/Gruber: 5-0)

### IV. Remarks from the Public

Three individuals addressed the Board with concerns pertaining to the implementation of Proposition I.

### V. Consideration of Appeals

A. 334 - 26th Ave. #7

P001-94R & P001-53A

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable in the amount of \$630.00 due to various habitability problems in the unit. Both the landlord and the tenants appeal. The tenants allege that the hearing officer made several calculation errors in the decision, and incorrectly assumed that all problems had been abated. The landlord asserts that several of the items had not been promised to the tenants prior to the inception of the tenancy; that the problems have all been remedied; and that any existing conditions have arisen since the time of the hearing with no notice to the landlord.



MSC: To accept the appeals of the landlord and the tenants and remand the case to the hearing officer for a new hearing. (L. Becker/How: 5-0)

B. 221 Noe St.

P001-92R & -93R

The landlord's petition for rent increases based on increased operating expenses was granted by the hearing officer, resulting in 7% increases to the tenants in eight units. Two tenants appeal the decision on the basis of financial hardship. Prior to consideration of this matter, the Board received a letter from the landlord stipulating to deferral of the increase to the tenant in unit #8.

MSC: To accept the appeal of the tenant in unit #5 and remand the case to a hearing officer for a hearing on the issue of the tenant's financial hardship, including an examination of the joint and several liability of both tenants in the unit for payment of the rent. (Marshall/L. Becker: 5-0)

C. 106 Clifford Terr.

P001-54A

The landlord's petition for certification of capital improvement costs associated with the installation of a new furnace was denied by the hearing officer because the unit was first rented to the subject tenants less than six months prior to the commencement of the work. The landlord appeals, asserting that the "6-Month Rule" [Rules and Regulations Section 7.12(b)] has the deleterious effect of providing a disincentive for landlords to perform timely repairs in favor of the landlord waiting until the requisite 6-month period has passed.

MSC: To deny the appeal. (L. Becker/Marshall: 5-0)

D. 1540 Great Highway #10

P001-95R

The tenant's petition alleging decreases in housing services was denied because the hearing officer found that the tenant had failed to take advantage of pest control services offered by the landlord; and the tenant had always had the use of a working heater, and therefore had suffered no heating loss. The tenant appeals, alleging that: the hearing officer did not acknowledge obvious inconsistencies in the landlord's and manager's testimony at the hearing; false evidence was submitted by the landlord; disruptions were allowed to occur at the hearing while testimony was being given; and the evidence presented was not evaluated properly.

MSC: To accept the tenant's appeal on the issue of whether the landlord acted with sufficient diligence to block the access of the rodents to the unit; a hearing will be held only if necessary, at the hearing officer's discretion. (Marshall/L. Becker: 5-0)

VI. Executive Session

The Board went into Executive Session with Deputy City Attorney Jay Cumming pursuant to Government Code Section 54956.9(a) from 7:05 to 8:10 p.m. to discuss the case of S.F. Tenants Union v. S.F. Rent Board (Superior Court Case No. 967309).

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of a letter from President Coffino to City Attorney Louise Renne requesting that she put in writing her opinion regarding two questions related to the implementation of Proposition I: the issue of vacancy control during the "Transition Period" (May 1, 1994 to December 22, 1994); and the retroactive effects of the rent rollback and refund provisions of the law.

VIII. Director's Report

Executive Director Grubb commented that one Commissioner hasn't yet turned in their Conflict of Interest form, which was due on April 1st.

IX. Calendar Items

April 11, 1995

Executive Session: Litigation  
Old Business: Proposition I

April 18, 1995 - NO MEETING

X. Adjournment

President Coffino adjourned the meeting at 8:15 p.m.





195  
FRANK M. JORDAN  
MAYOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

Tuesday, 5:30 p.m.,

April 11, 1995

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

AGENDA

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

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I. Call to Order	APR 10 1995
II. Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III. Approval of the Minutes	
IV. Remarks from the Public	
V. Executive Session	
Litigation - Government Code Section 54956.9(a) <u>San Francisco Tenants Union v. S.F. Rent Board</u> (Superior Court Case No. 967309)	
VI. Communications	
VII. Director's Report	
VIII. Old Business	
Proposition I: Regulations Pertaining to Increases for Newly Covered Units - Subject to Further Amendment	
IV. Remarks from the Public (cont.)	
IX. New Business	
X. Calendar Items	
XI. Adjournment	



**ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 7I Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

1995  
**FRANK M. JORDAN**  
**MAJOR****MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**Tuesday, April 11, 1995, at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level**JOSEPH GRUBB**  
**EXECUTIVE DIRECTOR****MICHAEL COFFINO**  
**PRESIDENT****LARRY B. BECKER**  
**VICE-PRESIDENT****BARRIE BECKER**  
**DAVID G. GRUBER**  
**MAMIE HOW**  
**MERRIE T. LIGHTNER**  
**POLLY MARSHALL**  
**KATHERINE NASH**  
**JILL SCHLICHTMANN**  
**CATHERINE STEANE****DOCUMENTS DEPT.****MAY 04 1995****SAN FRANCISCO  
PUBLIC LIBRARY****I. Call to Order**

Vice President Becker called the meeting to order at 5:43 p.m.

**II. Roll Call**

Commissioners Present: L. Becker; Gruber; How; Lightner; Marshall; Nash; Schlichtmann; Steane.  
Commissioners not Present: B. Becker; Coffino  
Staff Present: Grubb; Gartzman.

Commissioner How appeared on the record at 5:58 p.m.

**III. Approval of the Minutes**MSC: To approve the Minutes of April 4, 1995.  
(Schlichtmann/Gruber: 5-0)**IV. Remarks from the Public**

Robert Pender informed the Commissioners that "the Costa Bill," which seeks to exempt certain properties from rent controls, passed the Senate Finance Committee. He requested support from the Commission and the public to defeat the bill when it reaches the Assembly.

**V. Executive Session**

The Board went into Executive Session with Deputy City Attorney Jay Cumming pursuant to Government Code Section 54956.9(a) from 6:00 p.m. to 7:07 p.m. to discuss the case of S.F. Tenants Union v. S.F. Rent Board (Superior Court Case No. 967309).

MSC: To schedule a Public Hearing on April 25, 1995 at 6:00 p.m. for proposed new Rules and Regulations pertaining to Proposition I resulting from settlement negotiations in the case of S.F. Tenants Union v. S.F. Rent Board. (Lightner/L. Becker: 5-0)

Commissioner How requested that the press be notified.



VI. Director's Report

Executive Director Joe Grubb informed the Commissioners that the Supplemental Budget Request to cover increased costs related to the passage of Proposition I will go to the Board of Supervisor's Finance Committee. Mr. Grubb also advised the Commissioners that the regular meeting room (Room 70, Lower Level, 25 Van Ness Ave.) is unavailable for the required first meetings of the month for July and September 1995. The Commissioners discussed the possibility of amending Rules and Regulations Section 2.13(a), which requires the Board to meet on the first Tuesday of each month (except when that day falls on a legal holiday or election day). One proposal to address the difficulty of using shared meeting space would be to allow the Board to meet any Tuesday per month, as long as there was at least one meeting per month.

VII. Calendar Items

April 25, 1995

2 Appeal Considerations

6:00 **Public Hearing: Proposition I Regulations**

VIII. Adjournment

MSC: To adjourn the meeting at 7:22 p.m.  
(Gruber/Lightner: 5-0)



APRIL 14, 1995

DOCUMENTS DEPT.

APR 18 1995

SAN FRANCISCO  
PUBLIC LIBRARYNOTICE OF PUBLIC HEARINGDATE: APRIL 25, 1995

TIME: 6:00 P.M.

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)  
SUITE 70, LOWER LEVEL  
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE WHICH IS INTENDED TO IMPLEMENT PROPOSITION I. SECTIONS 1.11, 1.15, 1.16, 4.14, 5.13, 6.10, 6.11, 6.14, 7.10 AND 10.10 ARE PROPOSED FOR DISCUSSION. PLEASE NOTE THAT ALL SECTIONS ARE INTENDED TO REPLACE IN ITS ENTIRETY THE AMENDMENTS PASSED ON DECEMBER 20, 1994, JANUARY 31, 1995 AND MARCH 7, 1995. PLEASE REFER TO THE ATTACHED TEXT FOR MORE DETAIL.

You may either comment at the public hearing or submit written comments. If you would like to submit written comments, it is recommended that they be received at the Rent Board no later than **Noon Thursday April 20, 1995**, so that the Commissioners can review them prior to the hearing. Written comments may also be submitted at the hearing. You will also be able to address the Commissioners during public comment period at the hearing.

The proposed regulations included herein represent the collaborative efforts of the Rent Board and the litigants who filed a lawsuit challenging the regulations adopted on January 31, 1995. The proposed regulations do the following: set the anniversary date for newly covered units; interpret Proposition I with respect to the effect of a vacancy on subsequent rent levels; provide for rent increases based on increased operating and maintenance expenses; provide for rent increases based on rents for comparable units, including designated rent increases where the landlord has not increased the rent for a specified period of time; allow landlords to designate whether existing tenants are considered original tenants; allow the passthrough to tenants of capital improvement costs; and, allow tenants to petition for rent reductions after December 21, 1994 based on decreased housing services.

Please refer to the complete text for more detailed information on these proposed regulations.



**MICHAEL COFFINO**  
**PRESIDENT**

**LARRY B. BECKER**  
**VICE-PRESIDENT**

**FRANK M. JORDAN**  
**MAJOR**

**JOSEPH GRUBB**  
**EXECUTIVE DIRECTOR**

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

**Tuesday, 5:30 p.m.,  
April 25, 1994**

**25 Van Ness Avenue, #70, Lower Level**

**AGENDA**

**BARRIE BECKER**  
**DAVID G. GRUBER**  
**MAMIE HOW**  
**MERRIE T. LIGHTNER**  
**POLLY MARSHALL**  
**KATHERINE NASH**  
**JILL SCHLICHTMANN**  
**CATHERINE STEANE**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 234 Lily Street P001-96R

Tenant appeal of a decision denying petition alleging decreased housing services based on alleged noxious odors in the unit.

B. 1243 Gilman Avenue P001-55A

Landlord appeal of decision granted a petition alleging decreased housing services based on a leaking roof.

- V. **Public Hearing**

6:00 **Proposition I: Proposed Regulations Pertaining to  
Implementation of Ordinance Section 37.12**

- VI. Remarks from the Public

- VII. Communications

- VIII. Director's Report

- IX. Consideration of Allegations of Wrongful Evictions

A. 1243 Gilman Avenue P002-13E

- X. New Business

- XI. Calendar Items

- XII. Adjournment



SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS RELATING TO PROPOSITION I  
For consideration at public hearing on April 25, 1995  
(All changes to be effective February 1, 1995)

1 Existing Section 1.11(b) would be repealed and replaced with the  
2 following new section:

3           Section 1.11 Anniversary Date

4           (b) For Newly Covered Units, the first anniversary date shall be  
5 the date of the last lawful and effective rent increase or the date the  
6 tenancy commenced, whichever occurred later. The next allowable rent increase  
7 shall take effect no less than one year from the anniversary date, but, if it  
8 takes effect after more than one year, its effective date shall be the new  
9 anniversary date for purposes of future rent increases.

10                           \*       \*       \*

11 Existing Sections 1.15 through 1.18 would be renumbered as 1.17 through  
12 1.20, and the following two new sections would be added:

13           Section 1.15 Newly Covered Unit

14           "Newly Covered Unit" shall mean a Rental Unit that became subject  
15 to the Rent Ordinance on December 22, 1994 as a result of the passage of  
16 Proposition I in November 1994 because, as of that date, the unit was located  
17 in a building containing four Rental Units or less, and an owner (who held in  
18 good faith at least a fifty percent (50%) recorded fee interest) had occupied  
19 the building as a principal place of residence for at least six continuous  
20 months..

21           Section 1.16 Proposition I Affected Unit

22           "Proposition I Affected Unit" shall mean a Newly Covered Unit, as  
23 well as a unit that would have been subject to the Rent Ordinance on December  
24 22, 1994 regardless of passage of Proposition I at the November 1994 election,  
25 but that would have become exempt within a reasonable period of time  
26 thereafter if Proposition I had not passed. If the unit is not a Newly  
27 Covered Unit, the landlord must have:

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS RELATING TO PROPOSITION I

For consideration at public hearing on April 25, 1995  
(All changes to be effective February 1, 1995)

1 (a) resided in the building prior to November 9, 1994;  
2 (b) initiated renovations on a unit in the same building prior to  
3 November 9, 1994 for the purpose of residing in that unit, and at the  
4 conclusion of the renovations the landlord must have resided in that unit;

5 (c) served an eviction notice pursuant to Section 37.9(a)(8) prior  
6 to November 9, 1994 and sometime thereafter the landlord must have resided in  
7 the building; or

8 (d) initiated renovations (with all necessary permits) prior to  
9 November 9, 1994, which renovations were ordered by a governmental agency and  
10 would have reduced the total number of units in the building to four or less.

★ ★ ★

12 Existing Section 4.10(d) would be repealed. The following new section  
13 would be added:

14 Section 4.14 Effect of Vacancy

In accordance with Section 37.3(a) of the Rent Ordinance, the Rent  
Ordinance does not regulate initial rent levels for a new tenancy. The Rent  
Board does not interpret anything in Section 37.12 of the Rent Ordinance to  
alter this general principle. However, the Rent Board does find in the spirit  
of Section 37.12 an intent to preclude a landlord from setting a new Base Rent  
when that landlord served an eviction notice on or after May 1, 1994 and  
before December 22, 1994 (the "Transition Period") and the eviction would not  
have been permissible under Section 37.9 of the Rent Ordinance. Thus, for  
Newly Covered Units, if there was a proper termination of tenancy during the  
Transition Period, then the landlord was/is free to set a new Base Rent  
without limitation upon reletting the unit, and any rents paid by the new  
tenant that exceed initial base rent (as defined in Section 37.12(a) of the  
Rent Ordinance) need not be refunded to the new tenant. If there was not a

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proper termination of tenancy during the Transition Period, then the landlord was/is not entitled to set a new Base Rent, and the landlord shall be required to refund any overpayments of rent in accordance with Section 37.12(b) of the Rent Ordinance. A proper termination of tenancy occurs when the tenant:

- (a) terminates the tenancy voluntarily;
- (b) vacates the unit as a result of an eviction that would have been permissible under Sections 37.9 of the Rent Ordinance; or
- (c) vacates the unit as a result of a notice of eviction served prior to May 1, 1994.

Existing Section 5.13 would be amended to add two sentences as follows:

### Section 5.13 Imposition of Rent Increases Granted by the Hearing Officer

[INSERT TEXT OF EXISTING SECTION]

The landlord need not impose a rent increase (including a certified capital improvement) on the first opportunity after it is granted. Rather, the landlord may impose all or a portion of any such rent increase at a later date upon giving proper notice.

★ ★ ★

Existing Section 6.10(i) would be repealed and replaced with the following new section:

## Section 6.10 Operating and Maintenance

(i) Landlords of Proposition I Affected Units may petition the Board for a rent increase based on increased operating and maintenance expenses in accordance with, and subject to, Section 6.10 of these Rules and Regulations and Section 37.8 of the Rent Ordinance. Events before the unit was subject to the Rent Ordinance may be considered. Petitions for Proposition I Affected Units that are pending as of, or filed within six

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
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1 months of, \_\_\_\_\_ [insert passage date of amendment] may, at the  
2 request of the landlord, be treated as if filed on any day that the landlord  
3 designates on or after May 1, 1994 and before \_\_\_\_\_ [insert passage  
4 date of amendment]; provided, however, that the actual date of filing shall  
5 determine the effective date of any rent increase.

\* \* \*

7 Existing Section 6.11 would be repealed and replaced with the following  
8 new section:

9       Section 6.11 Comparables

10       A rent increase may be granted pursuant to this Section 6.11 only  
11 one time during the life of the unit, and Sections 6.11(a) and 6.11(b) are  
12 each mutually exclusive of the other; however, a landlord may petition for an  
13 increase under both Sections 6.11(a) and 6.11(b) in the alternative.

14       (a) Petition Based on Extraordinary Circumstances

15           (1) The provisions of this Section 6.11(a) shall apply only  
16 in extraordinary circumstances, including but not limited to situations:

17               (A) where, because of a special relationship between  
18 the landlord and tenant, or through fraud, mental incompetency, or some other  
19 reason, the initial rent on a unit was set very low or the rent was not  
20 increased or was increased only negligible amounts during the tenancy; or

21               (B) where the landlord became owner of record of a  
22 Proposition I Affected Unit between September 1, 1993 and December 22, 1994,  
23 or where the landlord entered into an agreement to purchase a Proposition I  
24 Affected Unit which agreement became non-contingent on or after September 1,  
25 1993 and before November 9, 1994, and, in becoming owner of record or entering  
26 into the purchase agreement, the landlord relied on the ability to increase  
27 rents without limitation from the Rent Ordinance.

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Passage of Proposition I at the November 1994 election does not in and of itself satisfy this Section 6.11(a)(1), though it may be considered.

(2) A rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that the rent for the unit is significantly below those of comparable units in the same general area as defined in Section 6.11(a)(3) below. If a rent increase is granted pursuant to this Section 6.11(a), the increase shall preclude the imposition of all annual rent increases, banked increases, and operating and maintenance increases that the landlord could have imposed prior to the filing of the petition. For purposes of the preceding sentence, petitions for Proposition I Affected Units that are pending as of, or filed within six months of, \_\_\_\_\_ [insert passage date of amendment] may, at the request of the landlord, be treated as if filed on May 1, 1994; provided, however, that the actual date of filing shall determine the effective date of any rent increase.

(3) The length of occupancy of the current tenant, size and physical condition of the unit and building, and services paid for by the tenant are important factors (though not the exclusive ones) in determining whether or not a unit is "comparable" to another, as the term "comparable" is used in the Rent Ordinance and in these Rules. Evidence of reasonably comparable units is required; however, "perfect" comparability is not required. The issue of "rent for comparable units" may be raised by a landlord or a tenant.

(4) For Proposition I Affected Units, when determining the length of occupancy of the current tenant, occupancy before April 15, 1979

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
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need not be considered if it appears from both the landlord's and the tenant's evidence that it is impractical to do so under the circumstances; however, occupancy before the unit most recently became subject to rent regulation shall not be considered when:

(A) the requirements of Section 6.11(a)(1)(A) are satisfied, and the rent at the time the unit most recently became subject to rent regulation was not arrived at through arm's length negotiations due to a special relationship, fraud, mental incompetency, or some other reason; or

(B) the requirements of Section 6.11(a)(1)(B) are satisfied, and some rent increase is necessary to relieve the landlord from hardship.

(b) Petition Based on the Past Rent History of a Proposition I

(1) The provisions of this Section 6.11(b) shall apply only to Proposition I Affected Units.

(2) A landlord may petition for only one of the following increases:

(A) A 7.2% rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that no Rent Increases (as defined in Section 37.2(o) of the Rent Ordinance) were in effect between May 2, 1991 and May 1, 1994;

(B) An 11.2% rent increase during a tenancy may be considered justified, even in the absence of an increase in costs of operating and maintenance expenses as limited in Section 6.10 above, if it is established that no Rent Increases (as defined in Section 37.2(o) of the Rent Ordinance) were in effect between May 2, 1990 and May 1, 1994; or

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS RELATING TO PROPOSITION I  
For consideration at public hearing on April 25, 1995  
(All changes to be effective February 1, 1995)

1 (C) A 15.2% rent increase during a tenancy may be  
2 considered justified, even in the absence of an increase in costs of operating  
3 and maintenance expenses as limited in Section 6.10 above, if it is  
4 established that no Rent Increases (as defined in Section 37.2(o) of the Rent  
5 Ordinance) were in effect between May 2, 1989 and May 1, 1994.

6 (3) By executing a waiver form which can be obtained from  
7 the Rent Board, a tenant may waive the right to a hearing on a petition for  
8 increase brought under this Section 6.11(b), in which case the hearing officer  
9 shall issue a determination based on the facts as alleged in the petition.

10 \* \* \*

11 Existing Section 6.14(e) would be repealed and replaced with the  
12 following new section:

13 Section 6.14 Agreements to Pay Additional Rent for Change of Tenants

14 (e) For Proposition I Affected Units, a new co-tenant shall be  
15 considered a tenant as defined in subsection (a) above unless the landlord has  
16 not accepted the new co-tenant as a tenant pursuant to applicable law and the  
17 landlord gives the new co-tenant written notice on or before August 13, 1995  
18 that she/he is not considered a tenant under subsection (a) above. This  
19 subsection (e) applies only to tenancies that commenced prior to February 14,  
20 1995. For tenancies that commenced on or after February 14, 1995, the 60-day  
21 notice requirement contained in subsection (d) above shall apply. A landlord  
22 may comply with subsection (c) and this subsection (e) simultaneously.

23 //

24 //

25 //

26 //

27 //

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS RELATING TO PROPOSITION I  
For consideration at public hearing on April 25, 1995  
(All changes to be effective February 1, 1995)

1

\* \* \*

2

Existing Section 7.10(d) would be repealed and replaced with the  
3 following new section:

4

Section 7.10 Filing

5

(d) Special Provision for Owners of Proposition I Affected Units

6

Landlords of Proposition I Affected Units may petition the Board to  
7 certify the cost of capital improvements, rehabilitation and/or energy  
8 conservation work in accordance with, and subject to, the rules and procedures  
9 set forth in Part 7 of these Rules and Regulations and Section 37.7 of the  
10 Rent Ordinance. Events before the unit was subject to the Rent Ordinance may  
11 be considered. Petitions for Proposition I Affected Units that are pending as  
12 of, or filed within six months of, \_\_\_\_\_ [insert passage date of  
13 amendment] may, at the request of the landlord, be treated as if filed on May  
14 1, 1994; provided, however, that the actual date of filing shall determine the  
15 effective date of any rent increase.

16

\* \* \*

17

Existing Section 10.10(e) would be repealed and replaced with the  
18 following new section:

19

Section 10.10 Decrease in Services

20

(e) With respect to Newly Covered Units, the earliest permissible  
21 effective date for any rent decrease allowed under this Section 10.10 shall be  
22 December 22, 1994; provided, however, that the initial base rent, as defined  
23 by Section 37.12(a) of the Rent Ordinance, shall include all housing services  
24 provided or reasonably expected on May 1, 1994 or as of the commencement of  
25 the tenancy, whichever is later.

26

//

27

0607s

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# City and County of San Francisco



25/95  
MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

# Residential Rent Stabilization and Arbitration Board

## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

FRANK M. JORDAN  
MAYOR

Tuesday, April 25, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

### I. Call to Order

President Coffino called the meeting to order at 5:45 p.m.

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### II. Roll Call

Commissioners Present: B. Becker; Coffino; How; Lightner;  
Marshall; Nash; Schlichtmann; Steane.  
Commissioners not Present: L. Becker; Gruber.  
Staff Present: Grubb; Wolf.

Commissioner B. Becker went off the record at 7:50 p.m.

### III. Consideration of Appeals

A. 234 Lily Street

P001-96R

The tenant's petition alleging a substantial decrease in housing services due to noxious fumes in her unit was denied by the hearing officer, who found that the tenant had failed to meet her burden of proof. Rather, an industrial hygiene survey submitted into evidence postulated that the high levels of carbon dioxide in the tenant's unit were caused by the tenant's failure to adequately ventilate her unit. On appeal, the tenant asserts that adequate ventilation would only be a remediation measure, and do nothing to correct the source of the problem; and that keeping the windows in unit open at all times would lead to extremely high heating bills and personal discomfort to the occupants.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

B. 1243 Gilman Avenue

P001-55A

The tenants' petition alleging a substantial decrease in housing services due to roof leaks at the premises was granted, and the landlord was found liable to the tenants in the amount of \$100.00 per month until the problem is remedied. The landlord appeals, alleging that the problem had been rectified by the time of the hearing.



MSC: To deny the appeal; the parties are instructed, however, that if the roof leak was remedied prior to March 30, 1995, full rent was due from that time forward. (Marshall/B. Becker: 5-0)

#### IV. Public Hearing

The Board held a Public Hearing from 6:20 p.m. to 7:00 p.m. on proposed new Rules and Regulations pertaining to Proposition I resulting from settlement negotiations in the case of S.F. Tenants Union v. S.F. Rent Board (Superior Court Case No. 967309). Five tenants and eleven landlords spoke to the proposal. Almost everyone who spoke acknowledged the hard work put in by the Commissioners in grappling with the difficult issues associated with Prop. I over the last 5 months. In general, the tenants present seemed to feel that the proposed Rules reflected a fair compromise. Several landlords, however, voiced their opinion that Prop I landlords would still be in a worse position than if they had been under the jurisdiction of the Ordinance, and that the proposal was not a "good deal" for landlords. After testimony and discussion, the Board passed the following motion:

MSC: To adopt the proposed Rules and Regulations put out for Public Hearing with several minor changes as suggested by Deputy City Attorney Jay Cumming and Senior Hearing Officer Sandra Gartzman, with the recognition that the requirement of "good faith" occupancy by the owner is implicit in Section 1.16; and that the adoption of Section 6.10(i) for Proposition I Affected Units shall have no negative inference on the Board's policy of a landlord being able to use any 24-month period for operating and maintenance expense petitions when the landlord has incurred a permanent increase in expenses. The newly adopted Rules and Regulations are attached and incorporated herein. (Marshall/Lightner: 5-0)

#### V. Communications

In addition to correspondence pertaining to the proposed Rules and Regulations, the Commissioners received the following communications:

- A. A job announcement for the temporary Hearing Officer position that will be available at the end of May due to the supplement budget appropriation related to the passage of Proposition I.
- B. An invitation from Assessor Doris Ward to a breakfast meeting to discuss the State budget with Assembly Speaker Willie Brown on April 28th at 8:00 a.m.

#### VI. Director's Report

Executive Director Grubb reported as follows:

A. Supervisor Bierman is expecting to withdraw or table her proposed legislation pertaining to the Rent Board's rule-making authority with regard to units affected by Proposition I at next week's Board of Supervisors meeting.

B. Supervisor Kaufman is introducing legislation to establish Business Improvement Districts in neighborhoods wherein 51% of the landowners vote to assess themselves for the costs of improvements such as lighting, security, etc. The legislation precludes the landlord's passing through such costs to low-income individuals and contains a resolution requesting that the Rent Board preclude the passthrough of these costs to residential tenants in these districts.

**VII. Consideration of Allegations of Wrongful Evictions**

1243 Gilman Ave.

P002-13E

The tenants filed a successful Petition for Arbitration alleging decreased housing services due to roof leaks at the premises; a prior petition for the same reason had resulted in a Conciliation Agreement between the parties. The landlord served the tenants with several defective eviction notices asking them to vacate the premises immediately; purportedly because she was concerned for their safety and hadn't the funds to perform necessary work on the unit. Although several of these notices were subsequently rescinded by the landlord, it appears that the landlord is under the impression that a month-to-month tenancy may be terminated upon thirty-day notice from either party, without the requisite "just cause". The hearing officer and Eviction Unit Supervisor advise sending the landlord a strongly worded letter cautioning her against proceeding with the eviction, with possible referral to the District Attorney should she do so.

MSC: To accept the hearing officer's recommendation except that the letter shall be educational and not punitive, with no mention of referral to the District Attorney.

(Coffino/Lightner: 5-0)

**VIII. Remarks from the Public**

Ted Gullickson of the Tenants Union reminded the Board that he and Attorney Robert De Vries had requested that they have input into the Notice of Hearing for hearings on Prop. I petitions requesting increases due to the past rent history of the unit. Tenants will be allowed to waive their right to a hearing on these petitions, and the notice will need to adequately inform tenants of defenses that can be raised to such increases (i.e., the landlord's failure to make requested repairs that are required by law). One landlord suggested that an Ombudsman position be created to help unsophisticated landlords with Proposition I-related problems; another landlord asked questions regarding her remedies when a tenant refuses to sign a lease with a new owner.

**IX. New Business**

The new Proposition I Landlord Petition Forms developed by Senior Hearing Officer Sandra Gartzman were approved by the Board and will be mailed to all landlords who filed petitions under the previously adopted Rules.

**X. Calendar Items**

May 2, 1995

6 appeal considerations

May 9, 1995 - NO MEETING

**XI. Adjournment**

President Coffino adjourned the meeting at 8:15 p.m.



MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,  
May 2, 1995

25 Van Ness Avenue, #70, Lower Level

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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A. Golden Gateway P001-99R & P002-01R  
thru -04R

Five tenants appeal a decision certifying capital improvement costs;  
several on the basis of financial hardship.

B. 1040 Greenwich St. #22 & 30 P001-56A; P001-97  
& -98R

Two tenants and the landlord appeal a remand decision certifying  
capital improvement costs and determining rent overpayments.

C. 50-52 Edith St. P001-57A

Landlord appeal of a decision denying a Petition for Extension of  
Time on the grounds that the Rent Board lacks jurisdiction.

D. 745 - 43rd Ave. #4 P002-05R

Tenant appeal of a decision certifying capital improvement costs on  
the basis of financial hardship.

E. 543 Buena Vista West #1 P001-58A

Landlord appeal of a decision granting a petition alleging failure to  
repair.

VI. Communications





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- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, May 2, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

Commissioner Schlichtmann called the meeting to order at 5:50 p.m.

II. Roll Call

Commissioners Present: Gruber; Marshall; Nash; Schlichtmann.  
Commissioners not Present: L. Becker; Coffino; Lightner; Steane.  
Staff Present: Grubb; Wolf.

Commissioner B. Becker appeared on the record at 5:55 p.m.;  
Commissioner How arrived at 6:02 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 11, 1995.  
(Marshall/Gruber: 3-0)

IV. Consideration of Appeals

A. Golden Gateway

P001-99R & P002-01R  
thru -03R

The landlord's petition for certification of capital improvement costs to the tenants in 681 units was granted, in part, by the hearing officer, resulting in a monthly passthrough in the amount of \$38.93 per unit. Four tenants appeal, three on the basis of financial hardship; one tenant alleges that her rent was unlawfully increased during a period when the complex was under HUD jurisdiction.

MSC: To deny the appeal of tenant Mary Pecci at 440 Davis Court #405 (P002-02R). (Gruber/Schlichtmann: 5-0)

MSC: To deny the appeal of tenant Evelyn Rice at 155 Jackson Street #408 (P002-01R). (Gruber/Schlichtmann: 5-0)

MSC: To accept the hardship appeal of tenant Catherine Lenehan at 550 Battery Street #1515 (P001-99R) and order that imposition of the approved passthrough amount shall

commence as of June 1, 1995; any retroactive amounts owing shall be waived. (Gruber/Schlichtmann: 4-0)

It was the consensus of the Board to continue consideration of the appeal of tenant Mrs. William Price at 550 Battery Street #1120 (P002-03R) to the meeting on May 16, 1995 in order for staff to obtain additional information.

B. 1040 Greenwich St. #22 & 30

P001-56A; P001-97R & -98R

The original Decision of Hearing Officer certifying capital improvement costs and determining rent overcharges due to PG&E and capital improvement passthroughs having been improperly included in base rent and/or not having been discontinued and/or recalculated at the appropriate times was appealed by two tenants and the landlord. The landlord's appeal was accepted on the issue of the costs of a lobby sofa not having been certified; the tenants' appeals were accepted and remanded with instructions to apply the PG&E regulations that were in effect at the time of the improper increases. The tenants and the landlord appeal the remand decision, which was issued on the record and without a remand hearing. The tenants allege that because of the 3-Year Statute of Limitations on refunds due to rent overpayments, the landlord should not be able to "bank" rent increases for the period prior to the 3-year cut-off, because the tenants are still paying those amounts; that the landlord's notices of rent increase were technically defective; and that the 3-Year Statute of Limitations on rent refunds should not apply in this case, because the rent overpayments occurred prior to the enactment of the Statute. The landlord asserts that, since neither party can produce copies of the allegedly improper 1982 notices of rent increase, there is no proof that the increases were unlawful.

MSC: To deny the tenants' appeals. (Gruber/How: 5-0)

It was the consensus of the Board to continue consideration of the landlord's appeal in order to obtain an opinion from the hearing officer.

C. 50-52 Edith St.

P001-57A

This appeal was withdrawn prior to the meeting, and was therefore taken off calendar.

D. 745 - 43rd Ave. #4

P002-05R

The landlord's petition for certification of capital improvement costs for nine units was granted, in part, resulting in a passthrough in the amount of \$102.75. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Schlichtmann/Marshall: 5-0)

E. 543 Buena Vista West #1

P001-58A

The tenant's petition alleging the landlord's failure to repair was granted and the otherwise allowable annual increase was ordered deferred until the landlord remedies several conditions constituting code violations in the unit. On appeal, the landlord alleges that he failed to appear at the hearing because he was advised by a Rent Board staff member that his request for postponement had been granted; that the tenant himself caused several of the defects in the unit; that the tenant provided no notice to the landlord regarding the automatic gate release; and that the landlord diligently investigated the cause of a leak in the unit that proved to be hard to locate and even more difficult to remedy.

MSC: To deny the appeal. (Gruber/B. Becker: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of the Tenant Times and the S.F. Apartment Magazine.

VI. Director's Report

Executive Director Grubb informed the Board as follows regarding the status of processing petitions for rent increases filed by Prop. I landlords: the new forms are almost finished; the hearing calendar from the end of May through June has been reserved for hearings on these petitions; and he is hopeful that the new temporary hearing officer and counselor positions can be filled by the end of May.

VII. Calendar Items

May 9, 1995 - NO MEETING

May 16, 1995

7 appeal considerations (1 cont. from 5/2/95)  
Executive Session: Litigation

May 23 & 30, 1995 - NO MEETING

VIII. Adjournment

Commissioner Schlichtmann adjourned the meeting at 6:45 p.m.



FRANK M. JORDAN  
MAYOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

May 16, 1995

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MICHAEL COFFINO

PRESIDENT

116/95

LARRY B. BECKER

VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

## AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Executive Session

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- VI. Consideration of Appeals

A. 1040 Greenwich #22 &amp; 30

P001-56A

(cont. from 5/2/95)

The landlord appeals the portion of a decision determining rent overpayments.

B. Golden Gateway

P002-03R & -04R;  
P002-07R thru P004-69R

Tenant appeals of a decision certifying capital improvement costs.

C. 3436 Pierce St. #4

P001-60A; P004-71R

The tenant and landlord appeal a decision granting a claim of decreased housing services and determining rent overpayments.

D. 861 Clayton St.

P001-61A; P004-70R

The landlord appeals a decision granting a petition alleging decreased housing services.

E. 2459 - 31st Ave.

P001-59A





Page 2 of the Agenda of May 16, 1995

The landlord appeals a decision partially granting the decreased housing services claims of two tenant petitioners.

F. 80 Julian Ave. P004-72R

The tenant, a non-profit corporation, appeals a decision denying a claim of rent overpayments due to lack of jurisdiction.

G. 301 - 8th St. #203 P004-73R

The tenant, who resides in an artist live-work space, appeals the dismissal of his petition alleging rent overpayments due to his failure to appear at the hearing. The tenant claims that he did not receive notice of the hearing.

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

X. New Business

Rent Board Composition

XI. Calendar Items

XII. Adjournment

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PRESIDENTLARRY B. BECKER  
VICE-PRESIDENTBARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANEMINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,Tuesday, May 16, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTOR

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SAN FRANCISCO  
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President Coffino called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: B. Becker; Coffino; Gruber; Lightner; Nash; Steane.

Commissioners not Present: L. Becker.

Staff Present: Grubb; Wolf.

Commissioner Schlichtmann appeared on the record at 5:40 p.m.; Commissioner Marshall arrived at 5:42 p.m.; and Commissioner How appeared at 7:00 p.m.

III. Approval of the MinutesMSC: To approve the Minutes of April 25, 1995.  
(Lightner/Coffino: 4-0)IV. Remarks from the Public

Randy Shaw of the Tenderloin Housing Clinic urged the Board members to hold a Public Hearing to examine alternatives to the present composition of the Commission. Mr. Shaw expressed his belief that the present structure places too much pressure on the person acting as the voting neutral. Robert Pender of the Tenants' Network voiced his opposition to Senate Bill 1257.

V. Consideration of Appeals

A. Golden Gateway

P002-03R & -04R;  
P002-07R thru P004-69R

The landlord's petition for certification of capital improvement costs to the tenants in 681 units was granted, in part, by the hearing officer, resulting in a monthly passthrough in the amount of \$38.93 per unit. Two tenants appeal the decision on the basis of financial hardship; and two tenants argue that the allocation method used by the hearing officer is inequitable because tenants in small apartments are being charged the same amount for an exterior paint job



as tenants in much larger penthouse units. Several hundred tenants appeal on the following grounds: that the Board goes beyond its rule-making authority in allowing imputed interest; that the regulation in effect at the time the instant petition was filed allowed for a maximum rate of 10%, and not an automatic entitlement to that amount; that the landlord failed to meet its burden of proof, as no evidence was proffered showing the source or cost of the funds used for the capital improvement work; and that, if imputed interest were to be allowed, it should be limited to the lower rate in effect at the time of issuance of the Decision of Hearing Officer, subsequent to the change in the Board's Rules and Regulations regarding imputed interest. .

MSC: To accept the appeals and remand the case to the hearing officer on the question of the source of the funds used by the landlord to perform the capital improvement work. If the landlord borrowed at an interest rate greater than 10% or used their own funds, then interest shall be allowed at the rate of 10%. If, however, the landlord borrowed at a rate of less than 10%, then the interest rate allowed shall be limited to that amount. The landlord shall be given an opportunity to prove the proper rate on the record, and the tenants' attorney shall be given an opportunity to respond. An evidentiary hearing shall be held only if necessary, at the hearing officer's discretion. (Marshall/Coffino: 3-2; Gruber, Lightner dissenting)

MSC: To deny the appeal of tenant Mrs. William Price at 550 Battery Street #1120 (P002-03R). (Coffino/Lightner: 5-0)

MSC: To accept the appeal of tenant Kate Maree at 440 Davis Court #1108 and remand the case to a hearing officer for a hearing on the tenant's claim of financial hardship. (Marshall/Coffino: 5-0)

MSC: To deny the appeal of tenant Eula Walters at 440 Davis Court #311. (Lightner/Coffino: 3-2; B. Becker, Marshall dissenting)

MSC: To deny the tenants' appeals on all other grounds. (Coffino/Lightner: 5-0)

B. 3436 Pierce St. #4

P001-60A; P004-71R

The tenant's appeal was filed four days late due to the tenant's having been called out of town unexpectedly to deal with a family emergency.

MSC: To find good cause for the late filing of the appeal. (Marshall/B. Becker: 5-0)

The tenant's petition alleging a substantial decrease in housing services due to the loss of use of a large parking space which could accommodate two cars was granted, and the tenant's rent was ordered reduced in the amount of

\$25.00 per month to compensate for the tenant's having to use a smaller space which accommodates one car only. Additionally, a proposed rent increase in the amount of \$50.00 per month due to the presence of an additional occupant in the unit was found to be unlawful. The tenant appeals the decision, arguing that: the market value of the garage is much higher than the rent reduction granted; and that the commencement date of the reduction in services should be two months earlier. The landlord also appeals the decision, asserting that: post-hearing submissions made by the tenant were not provided to the landlord's counsel; a Declaration of the former property manager was submitted under penalty of perjury, contrary to the statement of the hearing officer; if direct testimony was preferable, arrangements for telephonic testimony by the former manager could have been made; and the issue of improper rent increases was not properly before the hearing officer, as it had not been raised by the tenant in his petition.

MSC: To deny the appeals of the landlord and the tenant.  
(Gruber/Coffino: 5-0)

C. 861 Clayton St.

P001-61A; P004-70R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlords were found liable to the tenant in the amount of \$740.00 due to reduced or inadequate common area cleanliness, building security and back yard cleanliness. The landlords and the tenant appeal the decision. The landlords allege that the tenant is "hyper-sensitive" and overly fastidious, that she exaggerates the extent of problems in the building, and that her petition is motivated by the fact that she has been on disability for three years and is unable to pay her rent. The tenant asserts that the condition of the 6-unit building has constantly declined since the services of a resident manager were terminated, and that her complaints may seem small individually, but in the aggregate have resulted in a substantial decrease in the services she used to enjoy and had come to expect.

It was the consensus of the Board to continue consideration of this case to the June 6, 1995 meeting because the tenant allegedly did not receive a copy of the landlord's appeal.

D. 2459 - 31st Ave.

P001-59A

Two tenant petitions alleging decreases in housing services were granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amounts of \$2,495.00 and \$1,260.00 due to faulty central heating and lack of pest control. The landlord appeals, alleging that in 1992, the heater was repaired in less than one week; that the tenants failed to notify her of the heater's malfunctioning for over 9 months in 1993; and that the rodents on the premises were caused by the tenants' unsanitary housekeeping practices.

MSC: To deny the appeal. (Marshall/B. Becker: 3-2; Gruber, Lightner dissenting)

E. 80 Julian Ave.

P004-72R

The tenant, which is a non-profit corporation providing social services to Native Americans, filed a petition alleging unlawful increases in rent. The petition was denied due to lack of jurisdiction. The tenant appeals, asserting that the California Civil Code Section definition of "person" includes corporations.

MSC: To deny the appeal. (Coffino/Gruber: 5-0)

**VI. Executive Session**

The Board went into Executive Session pursuant to Government Code Section 54956.9(a) from 7:40 to 8:05 p.m. to discuss the case of Hislop v. S.F. Rent Board (Superior Court Case No. 961-976) with Deputy City Attorney Jay Cumming and passed the following motion:

MSC: To put out for Public Hearing on June 6, 1995 proposed changes to Rules and Regulations Section 6.10 pertaining to rent increases based upon "Special Real Estate Taxes". Four changes shall be made to Section 6.10, including: the clarification that offsetting decreases in the landlord's operating expenses shall not be considered; the inclusion of a reference to Ordinance Section 37.8(e)(4)(E), which provides that rent increases may be granted based on "Any other such relevant factors as the Board shall specify in rules and regulations"; the deletion of the "millage rate" as a factor in determining the amount of the allowable increase; and clarification that charges related to special benefit assessment districts, which are approved by a majority of affected property owners, cannot be assessed to tenants. (Coffino/Gruber: 5-0)

**V. Consideration of Appeals (cont.)**

F. 301 - 8th St. #203

P004-73R

The tenant's petition alleging unlawful rent increases was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant swears that he failed to receive the Notice of Hearing.

MSC: To accept the tenant's appeal and remand the case for a new hearing. (Marshall/Lightner: 5-0)

G. 1040 Greenwich St. #22 & 30

P001-56A (cont. from 5/2/95)

The original Decision of Hearing Officer certifying capital improvement costs and determining rent overcharges due to PG&E and capital improvement passthroughs having been improperly included in base rent and/or not having been discontinued and/or recalculated at the appropriate times was appealed

by two tenants and the landlord. The landlord's appeal was accepted on the issue of the costs of a lobby sofa not having been certified; the tenants' appeals were accepted and remanded with instructions to apply the PG&E regulations that were in effect at the time of the improper increases. The tenants and the landlord appealed the remand decision, which was issued on the record and without a remand hearing. The tenants alleged that because of the 3-Year Statute of Limitations on rent refunds due to rent overpayments, the landlord should not be able to "bank" rent increases for the period prior to the 3-year cut-off, because the tenants are still paying those amounts; that the landlord's notices of rent increase were technically defective; and that the 3-Year Statute of Limitations on rent refunds should not apply in this case, because the rent overpayments occurred prior to the enactment of the Statute. The landlord asserted that, since neither party produced copies of the allegedly improper 1982 notices of rent increase, there was no proof that the increases were unlawful. At the meeting on May 2, 1995, the Commissioners denied the tenants' appeals and continued consideration of the landlord's appeal in order to obtain an opinion from the hearing officer.

MSC: To deny the landlord's appeal. (Marshall/B. Becker: 4-1;  
Gruber dissenting)

#### VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. The office workload statistics for the month of April, 1995.
- B. A letter from a member of the public requesting that the Commissioners explain appeal consideration protocols to members of the public in attendance.
- C. A copy of the newly revised Landlord Petition for Arbitration form.

#### VIII. Director's Report

Executive Director Grubb reported as follows:

- A. Deputy City Attorney Jay Cumming will be joining the Rent Board staff as a full-time Hearing Officer.
- B. Thus far, two landlord petitions for rent increases under the newly enacted Proposition I regulations have been scheduled for hearing.
- C. Pursuant to legislation sponsored by Supervisor Migden, a mailing to landlords of Newly Covered Units under Proposition I will be mailed on May 22 and 23rd. The mailing will include an overview of the provisions of the rent law, and landlords will be responsible for providing a copy of the notice to their tenants.

**IX. New Business**

The Commissioners briefly discussed the proposal introduced by Attorney Randy Shaw that the composition of the Board be changed but the consensus of the Board members was that the present structure works well. Additionally, a farewell dinner for departing Commissioners Coffino and Schlichtmann is being planned for Wednesday evening, June 21st.

**III. Approval of the Minutes (cont.)**

MSC: To approve the Minutes of May 2, 1995.  
(Marshall/Schlichtmann: 5-0)

**X. Calendar Items**

May 23 & 30, 1995 - NO MEETINGS

June 6, 1995

9 appeal considerations (1 cont. from 5/16/95)  
Executive Session: Litigation  
Public Hearing: Proposed Changes to Rules Section 6.10  
Old Business: Proof of Service of Post-Hearing Submissions

**XI. Adjournment**

Président Coffino adjourned the meeting at 8:45 p.m.



FRANK M. JORDAN  
MAYOR

1995  
MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

BARRIE BECKER  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

May 26, 1995

NOTICE OF PUBLIC HEARING

DATE: JUNE 6, 1995

TIME: 6:00 P.M.

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)  
SUITE 70, LOWER LEVEL  
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO  
COMMENT ON PROPOSED CHANGES TO THE RULES AND  
REGULATIONS GOVERNING THE RESIDENTIAL RENT  
STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF  
THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE  
ATTACHED LANGUAGE WHICH AFFECTS HOW RENT INCREASES  
FOR OPERATING AND MAINTENANCE EXPENSES DUE TO BOND  
MEASURE AND ASSESSMENT DISTRICT COSTS ARE  
CALCULATED. PLEASE NOTE THAT NEW WORDING IS  
UNDERLINED AND DELETIONS ARE IN DOUBLE BRACKETS (( ))).

SECTION 6.10, OPERATING AND MAINTENANCE EXPENSES AND  
"SPECIAL REAL ESTATE TAXES" IS PROPOSED FOR  
AMENDMENT. THE TEXT IS ATTACHED HEREWITH.

You may either comment at the public hearing and/or submit written comments. If you would like to submit written comments, it is recommended that they be received at the department no later than **Noon on Thursday June 1, 1995**, so that the Commissioners can receive and review your comments prior to the hearing. Written comments may also be submitted at the hearing. You will be able to address the Commissioners during the public comment period at the hearing.

encl.

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MAY 30 1995

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SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
PROPOSED AMENDMENTS TO RULE 6.10 OF THE RULES AND REGULATIONS  
For Consideration at Public Hearing on June 6, 1995

1        Rule 6.10 of the San Francisco Residential Rent Stabilization and  
2        Arbitration Board's Rules and Regulations would be amended as follows:

3              Note: Additions are underlined; deletions are enclosed in ((double  
4              parentheses)).

5        Section 6.10      Operating and Maintenance Expenses and Special Real Estate  
6                           Taxes

7        (a) Operating and Maintenance Expenses

8              For purposes of these Rules and Regulations, "Operating and  
9        Maintenance Expenses" include but are not limited to real estate taxes (other  
10      than Special Real Estate Taxes as defined in subsection (b) below), business  
11      registration and license fees, insurance, routine maintenance and repairs,  
12      water, sewer service charge, janitorial service, refuse removal, elevator  
13      service, security system and debt service. Except in extraordinary  
14      circumstances, the following guidelines shall apply to increases based upon  
15      Operating and Maintenance E((e))xpenses:

16        (1) (((a))) Pursuant to Section 37.8(e)(4)(A) of the Rent Ordinance,  
17      a ((A)) rent increase may be considered justified if it is found that the  
18      aggregate cost of O((o))perating and M((m))aintenance E((e))xpenses  
19      ((including but not limited to real estate taxes, exclusive of taxes imposed  
20      after May 31, 1994 pursuant to a voter-approved bond issue and parcel taxes or  
21      fees imposed under a special assessment district, whether voter-approved or  
22      approved by the Board of Supervisors, water, sewer service charge, janitorial  
23      service, refuse removal, elevator service, security system and debt service)))  
24      has increased over a 12-month period preceding the date of filing the petition  
25      ("Year 2"), compared to the O((o))perating and M((m))aintenance E((e))xpenses  
26      incurred in the 12 months prior to Year 2 ("Year 1"), in a percentage amount  
27      of the tenant's rent above the percentage amount equal to the allowable annual  
28      rent increase. Alternatively, the immediately preceding two calendar years

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1 may be used. Use of a particular calculation period in order to create  
2 exaggerated results is disfavored. To determine the per unit rent increase,  
3 this cost increase is divided by 12 months, then divided by the number of  
4 units in the building. Only those tenants in residence during Year 1 may be  
5 assessed a rent increase based on an ((operating and maintenance)) increase in  
6 Operating and Maintenance Expenses, except in cases of change of ownership  
7 following commencement of tenancy.

8       (2) ((b)) Operating and Maintenance E((e))xpense increases shall be  
9 based on actual costs incurred by the landlord, prorated on a monthly basis  
10 where appropriate, allocated over the period of time the services were  
11 substantially rendered and/or the costs were substantially incurred in a  
12 manner that allows a fair comparison between Year 1 and Year 2. For example,  
13 the cost of refuse removal shall be allocated to the time periods when refuse  
14 removal occurred, the cost of insurance premiums shall be allocated to the  
15 period of coverage, the cost of repair work shall be allocated to the time  
16 when the work was performed, and the cost of property taxes, including  
17 supplemental taxes, shall be allocated to the applicable tax year (regardless  
18 of when the tax bill was received or paid). Proof of payment shall be  
19 required, and prospective increases shall not be considered, except that  
20 property taxes based upon supplemental tax bills not yet received and/or due  
21 and payable by the landlord shall be taken into account. All references to  
22 property taxes in this subsection (a) are exclusive of Special Real Estate  
23 Taxes as defined in subsection (b) below ((taxes imposed after May 31, 1994,  
24 pursuant to a voter-approved bond issue and parcel taxes or fees imposed under  
25 a special assessment district, whether voter-approved or approved by the Board  
26 of Supervisors (referred to herein as "Special Real Estate Taxes"))).

27       (3) ((c)) In the event that O((o))perating and M((m))aintenance  
28 E((e))xpenses have increased (as set forth above), a rent increase based on

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
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1 these expenses will be allowed only if the per unit increase amount exceeds  
2 that which has already been allowed by the annual rent increase, in which  
3 event only the amount over the annual rent increase amount will be allowed.  
4 If the per unit increase does not exceed the amount allowed by the annual rent  
5 increases, then only the annual rent increases will be allowed.

6       (4) (((d))) If the amount justified per unit exceeds the tenant's  
7 annual rent increase, an additional increase may be allowed. In no event  
8 shall this additional increase allowed for O((o))perating and M((m))aintenance  
9 Expenses ((costs)) result in an increase which exceeds the tenant's base rent  
10 by more than an additional 7% beyond the annual allowable increase.

11       (5) (((e))) If a building is refinanced or there is a change in  
12 ownership resulting in increased debt service and/or property taxes, only one  
13 rent increase per unit based upon increases in debt service and/or property  
14 taxes shall be allowed for each such refinance or transfer, except in  
15 extraordinary circumstances or in the interest of justice.

16       (6) (((f))) However, when the unit is purchased after June 13, 1979,  
17 and this purchase occurs within two (2) years of the date of purchase of the  
18 unit by the seller of the unit to the landlord, consideration shall not be  
19 given to the portion of increased debt service which results from a selling  
20 price which exceeds the seller's purchase price by more than the percentage  
21 increase in the CPI between the date of previous purchase and the date of  
22 current sale plus the cost of capital improvements, rehabilitation and/or  
23 energy conservation work made or performed by the seller.

24       (7) (((g))) Generally, an increase in debt service to obtain funds in  
25 excess of existing financing, will only be considered as a justification for a  
26 rent increase if the proceeds of the borrowing are or have been reinvested in  
27 the building for purposes of needed repairs and maintenance, or capital  
28 improvements. If any of the proceeds are, however, used for capital

SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
PROPOSED AMENDMENTS TO RULE 6.10 OF THE RULES AND REGULATIONS  
For Consideration at Public Hearing on June 6, 1995

1 improvements, the limitations set forth in Part 7 below shall apply to that  
2 portion.

3       (b) Special Real Estate Taxes

4           For purposes of these Rules and Regulations, "Special Real Estate  
5           Taxes" is defined as any tax imposed after May 31, 1994 pursuant to a  
6           voter-approved bond issue, any parcel tax imposed after May 31, 1994, and/or  
7           any charge levied after May 31, 1994 pursuant to a special benefit assessment  
8           district with the exception of any charge approved by a majority of affected  
9           property owners. The following guidelines shall apply to increases based upon  
10           Special Real Estate Taxes:

11           (1) (((h))) Pursuant to Section 37.8(e)(4)(E) of the Rent Ordinance  
12           and notwithstanding subsection(s) (a), (b) and (d)) above, a rent  
13           increase may be considered justified if it is found that the cost of Special  
14           Real Estate Taxes has increased during the tenancy irrespective of any  
15           increase that is solely the result of an increase in the assessed value of the  
16           property ((due to an increase in the millage rate (as defined below) and/or  
17           increase in parcel taxes, occurring after May 31, 1994. For purposes of this  
18           rule, the millage rate is defined as the portion of the ad valorem property  
19           tax rate in excess of the basic 1% property tax rate authorized pursuant to  
20           Section 1(a) of Article XIII A of the California Constitution. All components  
21           of the real property tax, other than those described in the first sentence of  
22           this subparagraph (h), shall not be included in the calculation of an increase  
23           in real property taxes under this subsection (h), but shall be included in the  
24           calculation of operating and maintenance expenses under subsections (a), (b),  
25           (c) and (d) above)).

26           (2) (((1))) For purposes of determining the ((operating expense  
27           increase based on an increase in the millage rate and an)) increase in the  
28           cost of Special Real Estate Taxes during the tenancy ((parcel taxes)),

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1 comparison may be made between the ((a)) tax year in which ((preceding the  
2 date of filing)) the petition is filed ((the "Comparison Year ((2))")) and the  
3 tax year in which the tenancy began ((immediately preceding Year 2)) (the  
4 "Base Year ((1))"). A tax year begins on July 1 and ends on June 30.  
5 ((Comparison may also be made between non-tax years; provided, however, that  
6 the selection of non-tax year periods does not create exaggerated results.))

7       (3) (((2))) To determine the per unit rent increase, ((the portion of  
8 the property tax bill attributable to Special Real Estate Taxes shall be  
9 calculated as follows for Year 1 and Year 2: for voter-approved bond issues  
10 and special assessment districts, whether voter-approved or approved by the  
11 Board of Supervisors, the assessed value of the property as it appears on the  
12 property tax bill shall be multiplied by the millage rate; for parcel taxes,  
13 by reference to the amounts specified on the property tax bill. The resulting  
14 total shall be referred to herein as the "Special Tax Amount." Any)) any  
15 increase in the cost of Special Real Estate Taxes ((Tax Amount)) from the Base  
16 Year ((1)) to the Comparison Year ((2)) shall be divided by 12 ((twelve))  
17 months and then divided by the number of units in the building. ((The  
18 resulting amount is the per unit increase.)) The increase in the cost of  
19 those Special Real Estate Taxes that affect the ad valorem property tax rate  
20 may be determined by calculating the incremental increase in that rate from  
21 the Base Year to the Comparison Year and multiplying that figure by the  
22 assessed value of the property in the Comparison Year. The increase in the  
23 cost of other Special Real Estate Taxes may be determined by reference to the  
24 property tax bills for the Base Year and the Comparison Year.

25       (4) (((3))) A rent increase based on an increase in the cost of  
26 Special Real Estate Taxes ((Tax Amount)) shall be allowed regardless of  
27 whether the per unit increase from the Base Year ((1)) to the Comparison Year  
28 ((2)) exceeds the tenant's annual rent increase and regardless of decreases in

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1        the landlord's Operating and Maintenance Expenses that might offset the  
2        increase in the cost of Special Real Estate Taxes. However, the amount by  
3        which a ((no)) rent increase based on an increase in the cost of Special Real  
4        Estate Taxes ((Tax Amount)) exceeds the same type of increase in the  
5        immediately preceding year shall not, alone or when combined with any rent  
6        increase during the same year based on increased Operating and Maintenance  
7        Expenses, ((shall)) exceed the tenant's base rent by more than 7%.  
8        ((Furthermore, any rent increase based on an increase in the Special Tax  
9        Amount shall take into account any rent increase based on other increased  
10      operating and maintenance expenses and vice versa. In no event may a landlord  
11      increase a tenant's base rent by more than 7% annually based on totalled  
12      increased operating and maintenance expenses, including an increase in the  
13      Special Tax Amount.))

14        (5) (((4) Only those tenants in residence during Year 1 may be  
15      assessed an increase based on an increase in the Special Tax Amount, except in  
16      cases of change of ownership following commencement of the tenancy.)) The  
17      rent increase may only be imposed at the time of an annual rent increase and  
18      shall not become part of the tenant's base rent. The increase shall be in  
19      effect for no more than a 12-month period, though the landlord may file a new  
20      petition and notice a new increase each year ((at which time it shall be  
21      re-noticed or discontinued)). ((Any such increase shall be recalculated each  
22      year by the owner to determine whether there have been any increases or  
23      decreases in the Special Tax Amount.))

24        (6) (((5))) All petitions based on an increase in the cost of Special  
25      Real Estate Taxes ((Tax Amount)) shall be scheduled for a hearing unless all  
26      parties agree in writing to waive their right to a hearing and all parties  
27      stipulate in writing to the relevant facts. The written waiver and  
28      stipulations shall be filed with the petition, on a form provided by the Rent

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1 Board. In such cases, a written decision based on the stipulations shall be  
2 issued by the hearing officer pursuant to Section 11.16(b). The decision  
3 would be subject to appeal pursuant to Ordinance Section 37.8(f).

4 (7) (((6))) The landlord has the burden of proof in establishing an  
5 increase in the cost of Special Real Estate Taxes ((Tax Amount)). Proof of  
6 cost and proof of payment shall be required.



## City and County of San Francisco



MICHAEL COFFINO  
PRESIDENT

LARRY B. BECKER  
VICE-PRESIDENT

6/95

Residential Rent Stabilization  
and Arbitration Board

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBBS  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,  
June 6, 1995

25 Van Ness Avenue, #70, Lower Level  
PLEASE NOTE CHANGED MEETING TIME

## AGENDA

BARRIE BECKER  
DAVID G. GRUBER  
MANIE HOW  
MERRIE T. LIGHTNER  
POLLY MARSHALL  
KATHERINE NASH  
JILL SCHLICHTMANN  
CATHERINE STEANE

I.	Call to Order	DOCUMENTS DEPT.
II.	Roll Call	JUN 1 1995
III.	Approval of the Minutes	SAN FRANCISCO PUBLIC LIBRARY
IV.	Remarks from the Public	
V.	Public Hearing	
6:00	Proposed Amendments to Rules and Regulations Section 6.10 - Rent Increases Based on Increased Operating and Maintenance Expenses and "Special Real Estate Taxes"	
VI.	Executive Session	
	Litigation - Government Code Section 54956.9(a) <u>Hislop v. S.F. Rent Board</u> (Superior Court Case No. 961-976)	
VII.	Consideration of Appeals	
A.	861 Clayton St. #2	P001-61A; P004-70R (cont. from 5/16/95)
	The landlord and tenant appeal a decision granting a petition alleging decreased housing services.	
B.	57 Beideman St.	P004-74R
	The tenant appeals a decision granting a claim of decreased housing services.	
C.	4041 Irving St. #4	P004-75R
	The tenant appeals a remand decision denying a decrease in services claim due to lack of jurisdiction.	

(415) 554-9550 (OFFICE AND 24-HOUR INFO LINE)

FAX (415) 554-9562



25 Van Ness Avenue, #320

San Francisco, CA 94102-6033





Page 2 of the Agenda of June 6, 1995

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D. 2911 - 16th St.

P001-62A

The landlord appeals a decision granting a claim of decreased housing services.

E. 2350 - 52 Polk St.

P001-63A

The landlord appeals a remand decision denying certification of claimed capital improvement costs.

F. 2033 Hayes St.

P001-64A; P001-18R

The landlord and tenant appeal a decision granting a claim of decreased housing services.

G. 425 Hyde St. #42

P004-76R

The tenant appeals a remand decision reducing the amount granted for her claim of decreased housing services.

H. 2021 California St.

P001-66A

The landlord appeals a decision granting six tenant petitions alleging decreased housing services.

I. 2409A - 46th Ave.

P001-65A

The landlord appeals a decision determining rent overpayments.

VIII. Communications

IX. Director's Report

X. Old Business

Proof of Service of Post-Hearing Submissions

IV. Remarks from the Public (cont.)

XI. New Business

Election of Officers: Calendar

XII. Calendar Items

XIII. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, June 6, 1995 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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16/95  
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I. Call to Order

Vice-President L. Becker called the meeting to order at 6:20 p.m.

II. Roll Call

Commissioners Present: L. Becker; Coffino; Gruber; How; Lightner;  
Marshall; Nash; Steane.

Commissioners not Present: B. Becker.

Staff Present: Gartzman; Wolf.

Commissioner Schlichtmann appeared on the record at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 16, 1995.  
(Marshall/Lightner: 3-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Commissioners that the Board of Supervisors voted to oppose Senate Bill 1257 by a vote of 8-0. Attorney Barbara Herzog referred the Board to a letter she had written requesting that the Board reconsider its decision to remand the capital improvement certification case regarding the Golden Gateway Center (O002-22C through O002-28C) for the provision of evidence concerning the financing of the capital improvement work.

V. Consideration of Appeals

A. 4041 Irving St.

P004-75R

The tenant's petition alleging decreased housing services was granted. The landlord appealed the decision, claiming that the building was exempt from Rent Board jurisdiction because as of the effective date of the Ordinance, "the building was still under construction and not habitable." The landlord's appeal was accepted and remanded for a new hearing on the issue of jurisdiction. The Decision of Hearing Officer on Remand reversed the original decision, finding that the landlord had shown "by credible evidence that the structure was not

sufficiently completed to allow residential occupancy on June 13, 1979, and was not so utilized until some time thereafter." The tenants appeal the remand decision, asserting that their counsel had been misled by the hearing officer's instruction to the landlord that a Certificate of Occupancy must be provided, which the landlord failed to do but nonetheless was found to have sufficiently met his burden of proof; that the landlord's claim that the Certificate of Occupancy was destroyed by fire is false; and that a Certificate of Occupancy was issued for this property prior to June 13, 1979, but a clerical error resulted in an incorrect address being listed.

MSC: To accept the appeal and remand the case for a new hearing on the issue of jurisdiction. (Marshall/L. Becker: 5-0)

B. 2350 Polk St.

P001-63A

The landlord's petition for certification of capital improvement costs associated with the rebuilding of a rear stairway was granted by the hearing officer. The tenants appealed the decision, alleging that the work was necessitated by deferred maintenance on the part of the landlord which had resulted in a code violation. The tenants' appeal was accepted and the case was remanded to the hearing officer, who issued a decision on the record denying certification of the cost of the work. The landlord appealed the remand decision, asserting that the fact that a Notice of Violation had been issued did not in of itself prove that the work was necessitated by deferred maintenance. The landlord's appeal was accepted and the case was again remanded. The hearing officer again denied certification, ruling that the presence of dry rot and absence of any records showing periodic inspection and/or repairs showed that the deferred maintenance defense was indeed applicable in this case. The landlord again appeals, on the grounds that: the tenants failed to provide documentation to support their objection, in fact failing to appear at the second remand hearing, and it is not the landlord's burden to disprove an allegation of deferred maintenance but rather the tenants' burden to prove it; the citation that was issued came from the Fire Department, and not the Department of Building Inspection; and that there is no maintenance method that the landlord could have employed that would have prevented the spread of dry rot.

MSC: To accept the appeal for Board hearing on the issue of whether the rear stairway and related roof work was necessitated by the landlord's deferred maintenance resulting in a code violation. (Lightner/Schlichtmann: 4-1; Marshall dissenting)

C. 2021 California St.

P001-66A

Six tenant petitions alleging a decrease in housing services due to the lack of adequate heat were granted and the landlord was found liable to the tenants in the amount of \$100.00 per month. Additionally, the tenants in unit #301 were granted a rent reduction in the amount of \$60.00 per month for a period of time during which their oven was inoperative. On appeal, the landlord asserts that: the problem could not have been "substantial", or more of the tenants in the 16-

unit building would have complained; a Notice of Violation issued by the Department of Building Inspection did not cite the landlord for inadequate provision of heat; and that the rent reductions granted were excessive.

MSC: To deny the appeal except for the three Technical Corrections noted by the Hearing Officer in his Memorandum of May 25, 1995.  
(Marshall/Schlichtmann: 3-2; Gruber, Lightner dissenting)

#### VI. Public Hearing

The Board commenced a Public Hearing at 7:20 p.m. on proposed changes to Rules and Regulations Section 6.10 pertaining to rent increases based upon "Special Real Estate Taxes." Four landlords or landlord representatives spoke to the proposed Rules changes, as did three tenants or representatives of the tenant community. The landlords who spoke stated their opinions that the proposed process by which landlords will be able to obtain increases based on Special Real Estate Taxes has become too complicated, especially if an annual petition is required, and offered several alternative methodologies. The tenants spoke to their belief that any operating expense increase must be looked at in light of possible decreases in expenses; and a 50-50 split of the costs was suggested by one tenant who testified.

#### VII. Executive Session

The Board went into Executive Session at 7:35 p.m. pursuant to Government Code Section 54956.9(a) with Deputy City Attorney Miriam Morely to discuss the case of Hislop v. S.F. Rent Board (Superior Court Case No. 961-976). After coming out of Executive Session at 8:30 p.m., the Board passed the following motions:

MSC: To adopt the changes to Rules and Regulations Section 6.10 put out for Public Hearing pertaining to increases based on "Special Real Estate Taxes" with the two following changes: the "base year" for calculation purposes shall not be prior to the 1994-95 tax year; and the landlord will have to recalculate the amount of the increase each year and adjust for any decreases or drop the increase, but will only have to file a new petition if the amount goes up. New Section 6.10 is effective as of June 6, 1995.  
(Lightner/Schlichtmann: 3-2; L. Becker, Marshall dissenting)

MSC: To authorize the Deputy City Attorney to drop the Board's appeal in the case of Hislop v. S.F. Rent Board (Superior Court Case No. 961-976).  
(Lightner/Schlichtmann: 5-0)

#### V. Consideration of Appeals (cont.)

D. 861 Clayton #2

P001-61A; P004-70R  
(cont. from 5/16/95)

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlords were found liable to the tenant in the amount of \$740.00 due to reduced or inadequate common area cleanliness, building security and back yard cleanliness. The landlords and the tenant appeal the decision. The landlords allege that the tenant is "hyper-sensitive" and overly fastidious, that she exaggerates the extent of problems in the building, and that her petition is motivated by the fact that she has been on disability for three years and is unable to pay the rent. The tenant asserts that the condition of the 6-unit building has constantly declined since the services of a resident manager were terminated, and that her complaints may seem small individually, but in the aggregate have resulted in a substantial decrease in the services she used to enjoy and had come to expect.

MSC: To deny both appeals. The parties are instructed that the landlord may give 30-day notice to restore the \$25.00 rent reduction for lack of security at the tradesman's entrance door and rear gate once an appropriate door closer with self-closing lock has been installed on the door.

(Marshall/Schlichtmann: 5-0)

E. 57 Biedeman St.

P004-74R

The tenants' petition alleging a substantial decrease in housing services due to a leaking roof was granted and the landlord was found liable to the tenants in the amount of \$1,716.00. The tenants appeal on the grounds that the amount granted by the hearing officer is inadequate. They assert that allowing a rent reduction during the winter months only fails to take into account ancillary year-round problems such as ceiling deterioration which causes debris to fall into and around the bathtub.

MSC: To accept the tenants' appeal and remand the case to the hearing officer to separate the rent reductions granted for the leaking roof and the resulting damage to the interior of the unit, assign values to each and make any necessary adjustment in the amounts granted on the record.

(Marshall/Schlichtmann: 5-0)

F. 2911 - 16th St.

P003-58T

The tenant's petition alleging a decrease in housing services because of the landlord's failure to replace his key to the entrance security gate was granted and the landlord was found liable to the tenant in the amount of \$450.00. On appeal, the landlord asserts that the tenant had not lost his key, but was engaging in a subterfuge in order to obtain an additional key for an unauthorized subtenant on the premises.

MSC: To deny the appeal. (Marshall/L. Becker: 5-0)

G. 2033 Hayes St.

P001-64A; P005-18R

The tenant's appeal was filed one day late due to the death of his father.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Schlichtmann: 5-0)

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$775.00 due to lack of a fire escape and holes in the floor of the unit, which let cold air in from the garage below. The tenants appeal the decision, asserting that the amount granted was too low and not commensurate with the serious violations of housing codes at the subject premises. The landlord also appeals the decision, on the grounds that: she did not receive a copy of the tenants' post-hearing submission; a metal ladder served as fire escape and second means of egress from the unit; there were only two holes in the floor, where the gas lines to the fireplace had been originally; and the tenants rented the unit "as is" with nothing additional promised.

MSC: To deny both appeals. (Gruber/Lightner: 5-0)

H. 425 Hyde St. #42

P004-76R

The tenant's appeal was filed three days late because the tenant, who is 83 years old, miscalculated the deadline by which to file the appeal.

MSC: To find good cause for the late filing of the appeal.  
(Lightner/Marshall: 5-0)

The tenant's petition alleging decreased housing services was granted, in part, and the tenant was allowed to reduce her rent in the amount of \$25.00 per month due to pest infestation in the unit. In his successful appeal, the landlord alleged that the tenant failed to cooperate with pest control efforts and that her unit was so cluttered that extermination services could not be properly rendered. The tenant failed to appear at the remand hearing. In the Decision on Remand, the landlord was found liable to the tenant in the amount of \$325.00, but the \$25.00 per month rent reduction was to terminate as of October 1994. The tenant appeals the remand decision, swearing that she failed to appear because she did not receive the Notice of Remand Hearing.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

I. 2409A - 46th Ave.

P001-65A

The landlord's appeal was filed 5-1/2 months late with no explanation as to its untimeliness. Because the landlord alleged that hardship had resulted from the hearing officer's Decision, it was the consensus of the Board to continue this

matter to the next meeting in order for staff to contact the landlord and ask for additional information.

#### VIII. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. A letter from Attorney Barbara Herzig concerning the capital improvement certification case involving the Golden Gateway complex (O002-22C through O002-28C).

B. The office workload statistics for the month of April, 1995.

#### IX. Director's Report

In the absence of Executive Director Joe Grubb, Deputy Director Delene Wolf informed the Commissioners that the Board will have the use of the Mayor's Box for a Giants game on July 14, 1995; and the Farewell Dinner for Commissioners Coffino and Schlichtmann will be held on June 21, 1995 at Backstage Restaurant.

#### X. New Business

It was agreed that the Board's Election of Officers will be calendared for the meeting of June 20, 1995.

#### XI. Calendar Items

June 13, 1995 - NO MEETING

June 20, 1995

5 appeal considerations (1 cont. from 6/6/95)

Executive Session: Litigation

Old Business: Rules and Regulations Section 6.10

New Business: Election of Officers

#### XII. Adjournment

Vice-President L. Becker adjourned the meeting at 9:50 p.m.

## City and County of San Francisco

Residential Rent Stabilization and  
Arbitration BoardNOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,

June 20, 1995

25 Van Ness Avenue, #70, Lower Level

## AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Executive Session

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## VI. Consideration of Appeals

Litigation - Government Code Section 54956.9(a)

Hislop v. S.F. Rent Board (Superior Court Case No. 961-976)A. 2409A - 46th Ave. P001-65A  
(cont. from 6/6/95)

The landlord appeals a decision determining rent overpayments.

B. Golden Gateway P004-77R thru P005-17R

Forty tenants untimely appeal a decision certifying capital improvement costs.

C. 2101 Pacific Ave. P005-20 &amp; -21R

Two tenants appeal a decision certifying capital improvement costs.

D. 505 - 26th Ave. #3 P005-19R

Two tenants in one unit appeal a decision certifying capital improvement costs on the grounds of financial hardship.

E. 3009 Mission St. #203 P001-67A

The landlord appeals a decision granting rent reductions due to decreased housing services on the basis of financial hardship.



Page 2 of the Agenda of June 20, 1995

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- VII. Communications
- VIII. Director's Report
- IX. Old Business
  - Rules and Regulations Section 6.10, pertaining to Rent Increases based on Increased Operating and Maintenance Expenses and "Special Real Estate Taxes" - Subject to Further Amendment, specifically Section 6.10(b)(5)
- IV. Remarks from the Public (cont.)
- X. New Business
  - Election of Officers
- XI. Calendar Items
- XII. Adjournment





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 MINUTES OF THE REGULAR MEETING OF  
 THE SAN FRANCISCO RESIDENTIAL RENT  
 STABILIZATION & ARBITRATION BOARD,

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Tuesday, June 20, 1995 at 6:00 p.m. at  
 25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

Vice-President L. Becker called the meeting to order at 6:35 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Lightner; Marshall;  
 Nash; Steane.

Commissioners not Present: B. Becker.

Staff Present: Gartzman; Grubb.

Commissioner Schlichtmann appeared on the record at 6:40 p.m.;  
 Commissioner How appeared on the record at 6:52 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 16, 1995.  
 (Marshall/Gruber: 4-0)

IV. Executive Session

The Board went into Executive Session pursuant to Government Code Section 54956.9(a) from 6:45 to 7:02 p.m. to discuss the case of Hislop v. S.F. Rent Board (Superior Court Case No. 961-976) with Deputy City Attorneys Miriam Morely and Julia Friedlander.

V. Old Business

Deputy City Attorney Julia Friedlander appeared and explained various aspects of assessment districts, parcel taxes and bond measures and calculation methodologies for corresponding increases in property taxes. The Commissioners requested that staff obtain additional information concerning historical tax rates and the limit on maximum indebtedness that the City could possibly incur. Following discussion of Section 6.10(b)(5) as approved on June 6, 1995, the following amendment was passed:

MSC: To approve the motion amending page 4, line 9, to read,  
 "...must file a new petition in order to raise the amount of the  
 increase currently in effect." (Schlichtmann/Gruber: 5-0)

VI. Consideration of Appeals

A. 2101 Pacific Ave.

P005-20 & -21R

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer and a monthly passthrough in the amount of \$109.74 was approved for the tenants in nine units, subject to the 10% cap. Two tenants appeal the decision, asserting that: the elevator is still awkward and dangerous to use; because of the inclement weather in the neighborhood, the roof deck has no utility; it is unclear whether the approved management fee was commensurate with the supervisory services performed by the landlord; even after replacement, the roof still leaks; and the new laundry room imposes additional expense but no additional benefits.

MSC: To deny both appeals. (Gruber/Lightner: 5-0)

B. 3009 Mission St. #203

P001-67A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$5,235.00 due to serious habitability defects in the unit. The landlord appeals, alleging that the Decision of Hearing Officer is in error and constitutes an abuse of discretion; that the landlord was not on notice of several of the problems for which rent reductions were granted; and that repayment of the sum authorized by the Decision would present the landlord with a financial hardship.

MS: To deny the appeal. (Marshall/L. Becker:)

After discussion, the Commissioners decided to continue the matter and requested that the HO prepare a memorandum for the Board clarifying the following issues: whether or not the resident manager's log was credible as a business record; why a decrease was granted for the security when it appeared that the owner acted expeditiously in resolving the problem; an explanation as to the hearing officer's opinion as to what extent, if any, the tenants contributed to the problems and condition of the unit; and, the impact of the tenants' failure to allow ready access to the owner.

MSC: To deny the hardship appeal. (Marshall/Gruber: 5-0)

C. 2409A - 46th Ave.

P001-65A

(cont. from 6/6/95)

The landlord, who is disabled, filed his appeal 5-1/2 months late due to his having been hospitalized and the fact that he failed to understand the repercussions of the decision until the tenants began withholding rent in compliance with the order of the hearing officer.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Lightner: 5-0)

The tenant's petition alleging unlawful increases in rent was granted, and the landlord was found liable to the tenants in an amount in excess of \$5,000.00. On appeal, the landlord alleges that fraudulent leases were entered into evidence by the tenants; and that the decision imposes a financial hardship on him which will force him to sell the property.

MSC: To accept the landlord's appeal and remand the case on the issues of the allegedly forged leases and the landlord's hardship, provided that the proper hardship form is filed if the issue of hardship is to be considered by the Hearing Officer. (L. Becker/Schlichtmann: 5-0)

D. Golden Gateway

P004-77R thru P005-17R

The landlord's petition for certification of capital improvement costs to the tenants in 681 units was granted, in part, by the hearing officer, resulting in a monthly passthrough in the amount of \$38.93 per unit. Forty tenants appeal the Decision of Hearing Officer on the following grounds: that the Board goes beyond its rule-making authority in allowing imputed interest; that the regulation in effect at the time the instant petition was filed allowed for a maximum rate of 10%, and not an automatic entitlement to that amount; that the landlord failed to meet its burden of proof, as no evidence was proffered showing the source or cost of the funds used for the capital improvement work; and that, if imputed interest were to be allowed, it should be limited to the lower rate in effect at the time of issuance of the Decision of Hearing Officer, subsequent to the change in the Board's Rules and Regulations regarding imputed interest.

MSC: To find no good cause for late filing by tenants Quinn, Capillo, Dunleavy and Bisping. All others must submit their reason for the late filing of their appeal under penalty of perjury, with evidence supporting the reason, by no later than noon on July 11, 1995. (L. Becker/Gruber: 5-0)

E. 505 - 26th Ave. #3

P005-19R

The landlord's petition for certification of the costs of a new roof and removal of an underground storage tank was granted, resulting in a monthly capital improvement passthrough in the amount of \$77.75. Two tenants in one unit appeal on the grounds of financial hardship.

It was the consensus of the Board to continue consideration of the case to the July 11, 1995 meeting to allow the owner to submit evidence of financial hardship, if any.

## VII. Communications

The most recent staff roster was distributed.

VIII. Director's Report

The Director reported that all of the 25 completed Proposition I petitions filed as of last week had been scheduled for hearing in June. The new ones filed since then will be scheduled and heard in July.

Additionally, the department's budget was heard before the Board of Supervisors today. Harvey Rose's office recommended minor cuts in the budget—a salary savings increase and a small reduction in the equipment line item.

IX. Election of Officers

MSC: Commissioner Marshall nominated Commissioner Larry B. Becker for President and Commissioner Merrie Lightner for Vice-President. (Marshall/ Steane: 8-0)

X. Calendar Items

June 27, 1995 - NO MEETING

July 4, 1995 - NO MEETING

July 11, 1995—Meeting in Suite 320, 25 Van Ness  
7 appeal considerations (1 cont. from 6/20/95)

XI. Adjournment

President L. Becker adjourned the meeting at 9:42 p.m.



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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

July 11, 1995

25 Van Ness Avenue, #320

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 3009 Mission St. #203 P001-67A  
(cont. from 6/20/95)

The landlord appeals a decision granting rent reductions due to decreased housing services on the grounds of financial hardship.

B. 1304 Lombard St. #11 P005-22R

One tenant appeals a decision certifying capital improvement costs.

C. 100 Broderick St. #305 P001-68A

The landlord appeals a decision granting rent reductions to twelve tenants due to decreased housing services.

D. 520 Taylor St. #104 P001-69A

The landlord appeals a decision determining rent overpayments due to an unlawful rent increase.

E. 440 Capp St. P005-23R

The tenant appeals a decision granting rent reductions due to decreased housing services.

F. 330 Alemany Blvd. #5 P005-24R

The tenant appeals the dismissal of her petition due to her failure to appear at the hearing.

G. 1420 - 5th Ave.

P005-25R

The tenants appeal the dismissal of their petition due to their failure to appear at the hearing.

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, July 11, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 320

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JUL 18 1995

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I. Call to Order

President L. Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Hayden; Lightner;  
Marshall; Nash; Steane; Wasserman.

Commissioners not Present: B. Becker.

Staff Present: Grubb; Wolf.

Commissioner How appeared on the record at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 20, 1995.  
(Marshall/Lightner: 4-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network inquired as to whether the two new Commissioners were landlord or tenant representatives, and was informed that Commissioners Hayden and Wasserman are neutrals.

V. Consideration of Appeals

A. 3009 Mission St. #203

P001-67A

(cont. from 6/20/95)

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$5,235.00 due to serious habitability defects in the unit. The landlord appeals, alleging that the Decision of Hearing Officer is in error and constitutes an abuse of discretion; that the landlord was not on notice of several of the problems for which rent reductions were granted; and that repayment of the sum authorized by the Decision would present the landlord with a financial hardship. At their meeting on June 20, 1995, the Commissioners denied the landlord's hardship appeal but continued the case in order to obtain a memorandum from the hearing officer clarifying the following issues: whether or not the resident

manager's log was credible as a business record; why a decrease was granted for lack of security when it appeared that the owner acted expeditiously in resolving the problem; to what extent, if any, the tenants contributed to the problems and condition of the unit; and the impact of the tenants' failure to allow ready access to the owner.

MSC: To deny the remaining issues in the landlord's appeal.  
(Marshall/Hayden: 4-1; Gruber dissenting)

In conjunction with consideration of the issues raised in this appeal, the Board held a lengthy discussion on the issue of the reliability of business records. The Commissioners wished the Minutes to reflect the consensus of the Board that business records ordinarily constitute good evidence, but that there was a problem with the business records in this case.

B. 1304 Lombard St. #11

P005-22R

The landlord's petition for certification of capital improvement costs for nine of 12 units was granted, resulting in a monthly passthrough in the amount of \$44.52 per tenant. One tenant appeals the decision, claiming that the cost of the roof work was \$13,500 and not \$18,500; and that the re-roofing was a repair and not a capital improvement.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

C. 100 Broderick St.

P001-68A

Six tenant petitions alleging decreased housing services due to lack of access to the roof were granted and the landlord was found liable to the tenants in amounts ranging from \$38.00 to \$100.00 per month. On appeal, the landlord asserts that: roof privileges were taken away by the prior owner of the property; the tenants' right to roof access was partially restored, but not taken into account by the hearing officer; use of the roof was not possible due to heavy rains; tenants have been using the roof, even though such use was prohibited; and the hearing officer was provided with misinformation by the tenants.

MSC: To deny the appeal. (Marshall/L. Becker: 4-1; Gruber dissenting)

D. 520 Taylor St. #104

P001-69A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$611.60. The landlord appeals, asserting that: because the Decision of Hearing Officer was not issued in a timely fashion, the hearing officer surrendered jurisdiction to decide this matter; the standard for evidence used by the Rent Board is stricter for landlords than for tenants; the tenant failed to meet his burden of proving that the increases were unlawful; the hearing officer exhibited bias against the landlord

and in favor of the tenant; and the equitable defense of laches applies to the facts of this case and should bar any refund to the tenant.

MSC: To deny the appeal. (Marshall/L. Becker: 3-2; Gruber, Lightner dissenting)

E. 440 Capp St.

P005-23R

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$2,320.00 due to serious habitability defects on the premises. The tenant appeals the decision, alleging that the amounts granted are not substantial; that the reduced base rent amount is not commensurate with the conditions at the premises; and that there are a number of errors in the Decision and inconsistencies with the taped recording of the hearing.

In his appeal, the tenant first mentions the fact that the landlord in this case has filed bankruptcy. Out of concern for the automatic stay provisions contained in the Bankruptcy Code, this matter was continued pending advice from the City Attorney.

F. 330 Alemany Blvd. #5

P005-24R

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant asserts that she mistakenly calendared the hearing for another date, which is attested to by a letter from her supervisor stating that she had asked for time off from work on that day.

MSC: To accept the tenant's appeal and remand the case for a new hearing with the stipulation that no further continuances will be granted to the tenant, absent extraordinary circumstances.  
(Marshall/Lightner: 5-0)

G. 1420 - 5th Ave.

P005-25R

The tenants' petition alleging decreased housing services was dismissed due to their failure to appear at the properly noticed hearing. On appeal, their attorney asserts that there was a miscommunication between he and his clients regarding who was going to notify the Rent Board of the withdrawal of the tenants' petition prior to the hearing; and that Rent Board staff scheduled the hearing on a date the tenants had stated they were going to be out of town. Counsel therefore requests that the case be remanded for a Dismissal Without Prejudice.

MSC: To accept the tenants' appeal and remand the case to the hearing officer to issue a Dismissal Without Prejudice.  
(Marshall/Gruber: 5-0)

**VI. Communications**

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A letter from landlord representative Andy Braden supplementing his request that the Commissioners reconsider the denial of the landlord's appeal concerning the case at 1040 Greenwich St. (P001-56A).
- B. A letter from Ted Gullickson of the San Francisco Tenants Union requesting that the Board issue its Decision on Remand concerning the case at 3835 - 24th St. (P001-36A), despite the fact that the landlord has filed for bankruptcy.
- C. The office workload statistics for the month of May, 1995.

**VII. Director's Report**

Executive Director Grubb reported as follows:

- A. The Tax Collector's Office has agreed to include the assessment for the rental unit fee that funds the Rent Board's operations on the next regular property tax mailing, if amendments to the Ordinance can be enacted in time.
- B. Senate Bill #1257 (Costa) has passed out of the Appropriations Committee. Passage of this legislation would exempt single family dwellings and condominiums from Rent Board jurisdiction. It is estimated that this would affect 8-10,000 units in San Francisco.
- C. The Controller's Office has provided the following historical data regarding fluctuations in the millage rate, which is used to calculate property tax increases for voter-approved bond measures: in 1975, the rate was 1.14; in 1990, it was 1.09; it is currently 1.15; and it will be 1.16 in the coming year. The projected high is 1.21. There is also approximately one billion dollars left in potential bond indebtedness.
- D. Mr. Grubb informed the Commissioners that he is exploring the possibility of mandatory mediation as a means of enabling the speedier issuance of Hearing Officer Decisions.
- E. The Rent Board has been provided with the use of the Mayor's Box for the Giants game on Friday, July 14th.

**VIII. Calendar Items**

July 18, 1995

4 appeal considerations (2 cont. from 6/20/95)

July 25, 1995 - NO MEETING

IX. Adjournment

President L. Becker adjourned the meeting at 8:05 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,

July 18, 1995

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

JUL 18 1995

SAN FRANCISCO  
PUBLIC LIBRARY

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. Golden Gateway

P004-77R thru P005-17R  
(cont. from 6/20/95)

Forty tenants untimely appeal a decision certifying capital improvement costs.

B. 505 - 26th Ave. P005-19R  
(cont. from 6/20/95)

Two tenants appeal a decision certifying capital improvement costs on the grounds of financial hardship.

C. 440 Davis Court #1616 P005-26R

The tenant appeals the dismissal of her petition due to her failure to appear at the properly noticed hearing.

D. 155 Jackson St. #705 P005-27R

The tenant untimely appeals a decision certifying capital improvement costs on the grounds of financial hardship.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

- IX. New Business
- X. Calendar Items
- XI. Adjournment



//

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, July 18, 1995 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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DOCUMENTS DEPT.

JUL 24 1995

SAN FRANCISCO  
PUBLIC LIBRARY

**I. Call to Order**

President L. Becker called the meeting to order at 6:10 p.m.

**II. Roll Call**

Commissioners Present: L. Becker; Gruber; Hayden; Lightner; Nash; Steane; Wasserman.

Commissioners not Present: B. Becker; How.

Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 6:12 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of July 11, 1995.  
(Lightner/Gruber: 5-0)

**IV. Consideration of Appeals**

A. Golden Gateway

P004-77R thru P005-17R  
(cont. from 6/20/95)

Prior to consideration of this matter, the Board passed the following motion:

MSC: To recuse Commissioner Wasserman from consideration of this appeal. (Gruber/Lightner: 5-0)

Forty tenants filed untimely appeals to the Decision of Hearing Officer certifying capital improvement costs. At their meeting on June 20, 1995, the Commissioners passed a motion finding no good cause for the late filing of four of the tenants, who provided no explanation as to their untimeliness. As to the other tenant appellants, the Board passed a motion requiring that they submit the reason for their late filing under penalty of perjury, with evidence supporting the reason. Upon review of the submissions received, the Board passed the following motions:

MSC: Regarding tenant Anne Maestri at 440 Davis Court #904  
(P004-95R): to find good cause for the late filing of the appeal

and remand the case to the hearing officer on the question of the source of the funds used by the landlord to perform the capital improvement work. If the landlord borrowed at an interest rate greater than 10% or used their own funds, then interest shall be allowed at the rate of 10%. If, however, the landlord borrowed at a rate of less than 10%, then the interest rate allowed shall be limited to that amount. The landlord shall be given an opportunity to prove the proper rate on the record, and the tenants' attorney shall be given an opportunity to respond. An evidentiary hearing shall be held only if necessary, at the hearing officer's discretion. (Gruber/Hayden: 5-0)

MSC: Regarding tenant Arthur Samuelson at 440 Davis Court #611 (P004-96R): to find good cause for the late filing of the appeal and remand the case to the hearing officer on the issues stated in the above motion. (Gruber/Marshall: 5-0)

MSF: Regarding tenant Richard Schulist at 155 Jackson St. #1802 (P004-83R): to find no good cause for the late filing of the appeal. (Gruber/Lightner: 2-3; L. Becker, Hayden, Marshall dissenting)

MSC: Regarding tenant Richard Schulist at 155 Jackson St. #1802 (P004-83R): to find good cause for the late filing of the appeal and remand the case to the hearing officer on the issues stated in the first motion above. (Marshall/L. Becker: 3-2; Gruber, Lightner dissenting)

MSC: Regarding tenant Christopher Owens at 550 Battery St. #1901 (P005-10R): to find good cause for the late filing of the appeal and remand the case to the hearing officer on the issues stated in the first motion above. (Gruber/Marshall: 5-0)

MSC: Regarding tenant Robert Fuller at 550 Battery St. #2114 (P005-13R): to find good cause for the late filing of the appeal and remand the case to the hearing officer on the issues stated in the first motion above. (Gruber/Lightner: 5-0)

MSC: Regarding tenant Harold Maine at 405 Davis Ct. #306 (P005-16R): to find good cause for the late filing of the appeal and remand the case to the hearing officer on the issues stated in the first motion above. (Gruber/Marshall: 5-0)

MSC: Regarding tenant Barbara Felton at 155 Jackson St. #904 (P004-82R): to find good cause for the late filing of the appeal and remand the case to the hearing officer on the issues stated in the first motion above. (Lightner/Marshall: 5-0)

MSC: Regarding tenants Loraine Brown at 405 Davis Ct. #1207 (P005-14R), Priscilla Bayer at 440 Davis Ct. #420 (P004-97R) and Jean Tomlinson at 440 Davis Ct. #2206 (P004-90R): to find good cause for the late filing of the appeals and remand the case to the hearing officer on the issues stated in the first motion above. (Gruber/Hayden: 5-0)

MSC: To find no good cause for the late filing of tenant appellants J. and M. Plankinton at 155 Jackson St. #1306 (P004-77R); Daniel Phelan at 155 Jackson St. #305 (P004-78R); Jack Kernan at 155 Jackson St. #2102 (P004-79R); Jo-Ann Rose at 155 Jackson St. #302; Sharon Oliveira at 155 Jackson St. #802 (P004-81R); Deena Kaye at 155 Jackson St. #2404 (P004-84R); Fred Robinson at 155 Jackson St. #506 (P004-85R); Herbert Fischbach at 440 Davis Ct. #2011 (P004-86R); Melvin Kaplan at 440 Davis Ct. #1814 (P004-87R); Brenda Dang at 440 Davis Ct. #1105 (P004-88R); Felisa Capillo at 440 Davis Ct. #2016 (P004-89R); Lucy Yeung at 400 Davis Ct. #2216 (P004-91R); Emil Richter at 440 Davis Ct. #1411 (P004-92R); Fari Mizban at 440 Davis Ct. #1616 (P004-93R); Charles Quinn at 440 Davis Ct. #1316 (P004-94R); Ruth Cooper at 440 Davis Ct. #302 (P004-98R); Jeanne Armes at 440 Davis Ct. #1309 (P004-99R); Lore Borsoni at 440 Davis Ct. #1308 (P005-01R); Lloyd Root, Jr. at 440 Davis Ct. #921 (P005-02R); Norman Reichert at 440 Davis Ct. #1310 (P005-03R); Marilyn Dunleavy at 500 Battery St. #911 (P005-04R); Piotr Bisping at 550 Battery St. #301 (P005-05R); Alfred Hooper at 550 Battery St. #607 (P005-06R); Paul Phillips at 550 Battery St. #712 (P005-07R); Wayne Hausman at 550 Battery St. #2016 (P005-08R); Phil Berger at 550 Battery St. #307 (P005-09R); Norma Pool at 550 Battery St. #807 (P005-11R); Thomas March at 550 Battery St. #2013 (P005-12R); William Scaggs at 405 Davis Ct. #1602 (P005-15R); and Marie Dutton at 405 Davis Ct. #1101 (P005-17R). The Decision of Hearing Officer is therefore final as to these tenants. (Lightner/Gruber: 5-0)

B. 505 - 26th Ave.

P005-19R

(cont. from 6/20/95)

The landlord's petition for certification of the costs of a new roof and removal of an underground storage tank was granted, resulting in a monthly capital improvement passthrough in the amount of \$77.75. Two tenants in one unit appeal on the grounds of financial hardship. At the meeting on June 20, 1995, consideration of this matter was continued in order to allow the owner to submit evidence of financial hardship, if any.

MSC: To accept the tenants' appeal and remand the case for a hearing on the tenants' alleged hardship; if the landlord wishes to pursue a claim of hardship as well, he must fill out the

required Hardship Application and submit supporting documentation at least one week prior to the remand hearing. (Marshall/Gruber: 5-0)

C. 440 Davis Court #1616

P005-26R

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at either of the two hearings scheduled in this multi-unit case. On appeal, the tenant maintains that it was impossible for her to attend on the hearing dates in question because she is a hairdresser with previously scheduled appointments on those dates.

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Marshall dissenting)

D. 155 Jackson St. #705

P005-27R

This appeal was withdrawn prior to the meeting because the landlord stipulated to the tenant's claim of financial hardship.

V. Director's Report

Executive Director Grubb informed the Commissioners that Hearing Officer Jay Cumming will be leaving to work for California Supreme Court Justice Arabian as a Judicial Staff Attorney.

VI. Calendar Items

July 25, 1995 - NO MEETING

August 1, 1995

2 appeal considerations (1 cont. from 7/11/95)  
6:00 Appeal Hearing: 2350-52 Polk St. P001-63A (acpt. 6/6/95)  
Old Business: Automatic Stay Provisions of the Bankruptcy Code

VII. Adjournment

President L. Becker adjourned the meeting at 7:20 p.m.



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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

52  
1  
1/1995  
Tuesday, 5:30 p.m.,

August 1, 1995

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

JUL 24 1995

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 440 Capp St.

P005-23R  
(cont. from 7/11/95)

The tenant appeals a decision granting rent reductions due to decreased housing services on the grounds that the amounts granted are insufficient. The landlord in this case has filed for bankruptcy since the issuance of the Decision.

B. 466 Frederick St. #4

Q001-01R

The tenant appeals a decision denying her claim of decreased housing services.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Automatic Stay Provisions of the Bankruptcy Code  
3835 - 24th St. (P001-36A)

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Appeal Hearing

6:00 2350 - 52 Polk St.

P001-63A (acpt. 6/6/95)

XI.      Calendar Items

XII.     Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, August 1, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level DOCUMENTS DEPT.

AUG 14 1995

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: L. Becker; Hayden; How; Lightner;  
Marshall; Nash; Wasserman.

Commissioners not Present: B. Becker; Gruber; Steane.  
Staff Present: Grubb; Gartzman.

III. Approval of the Minutes

MSC: To approve the Minutes of July 18, 1995.  
(Marshall/Lightner: 5-0)

IV. Remarks from the Public

A. Robert Pender distributed the new edition of the Tenant Times to the Commission and informed the Commissioners of a neighborhood walk sponsored by St. Peter's Housing Committee on August 12, 1995.

B. Zachary Sapis expressed his opinion that members of the public should be able to address the Commission about cases on the calendar. He also pointed out that the notice of appeal consideration does not state that a possible outcome is that the matter may be continued. Additionally, he stated that he did not get notice of the continued appeal consideration in his case.

V. Appeal Hearing

2350-2352 Polk Street

P001-63A (acpt. 6/6/95)

Friends of the tenant involved in the appeal hearing appeared before the Commission to request a postponement of the hearing scheduled for 6:00 p.m. They informed the Commissioners that the tenant was stranded in Florida, where she had been attending to a medical emergency in her family, due to a hurricane. The landlord objected to the last minute nature of the postponement request because he was present and prepared to offer the testimony of witnesses, including a fungus expert, and had a paid representative in attendance.

MSC: To continue the hearing and request that the tenant provide the following: evidence that she would have been in San Francisco on the hearing date but for the hurricane; and a written explanation of why she didn't call earlier about the cancellation of her flight or try to return to San Francisco a day earlier. The Board will try to reschedule the hearing at the landlord's convenience, possibly August 15.  
(Lightner/Marshall: 5-0)

VI. Consideration of Appeals

A. 440 Capp Street

P005-23R

(cont. from 7/11/95)

The tenant appealed a decision granting rent reductions due to decreased housing services on the grounds that the amounts granted are insufficient. The tenant's petition was filed on December 9, 1994 and the decision was issued on June 2, 1995. On June 19, 1995, the tenant filed the appeal, indicating that the landlord had filed for bankruptcy. Further investigation by the City Attorney's office revealed that the landlord filed for bankruptcy under Chapter 7 of the Bankruptcy Code on April 19, 1995. Thus, according to the advice of Assistant City Attorney Miriam Morely, issuance of the decision and filing of the appeal were in violation of the automatic stay and both are void as a matter of law. On July 26, 1995, the landlord's debts were discharged and the bankruptcy proceeding was concluded.

MSC: To take administrative notice of the bankruptcy proceeding and discharge of debts and to schedule a continued hearing with a new decision as appropriate. (Lightner/Marshall: 5-0)

B. 466 Frederick St. #4

Q001-01R

MSC: To recuse Commissioner L. Becker from consideration of this appeal. (Lightner/Marshall: 5-0)

The tenant's petition alleging decreased housing services based on loss of storage space was denied. The hearing officer decided that storage space was never provided as a housing service by the landlord, but was sublet from a former tenant (the resident manager) with whom the tenant had a private agreement. Pursuant to the decision, the tenant's right to use the space terminated by operation of law when the former tenant terminated his use of the space. On appeal, the tenant maintains that the hearing officer misinterpreted evidence presented at the hearing and relied on hearsay evidence which was not credible. She also contends that the resident manager was acting as an agent for the landlord rather than just another tenant when he sublet part of his rented space to the tenant for storage without the landlord's knowledge.

MSC: To deny the appeal. (Lightner/Hayden: 5-0)

## VII. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

- A. A Memorandum from the Board of Supervisors Budget Analyst concerning File 97-95-36 (Ordinance amending Article 37A of the San Francisco Administrative Code by amending Section 37A.4 to provide for collecting the Rent Board fee on property tax bills.
- B. Supervisor Kaufman's Resolution (File No. 109-95-4) regarding a prohibition against passthroughs to low income tenants for B.I.D. Assessments.
- C. A new roster of Commissioners.
- D. The office workload statistics for the month of June 1995.

## VIII. Director's Report

The Director reported on the Rent Board fee collection legislation and Supervisor Kaufman's Resolution concerning B.I.D. Assessment passthroughs. Both are scheduled for hearing at the August 3, 1995 Housing and Land Use Committee Meeting.

Additionally, a new state law (AB 1164: Hawkins-Costa Bill) concerning rent regulation of single family homes and condominiums was passed. Information concerning the specific provisions of the bill will be provided to the Commission when available.

## IX. Old Business

- A. 3835 - 24th Street (P001-36A) - The Senior Hearing Officer informed the Commissioners that the landlord had recently submitted a 3-month old order from the Bankruptcy Court granting the Rent Board relief from the automatic stay to issue the remand decision pending in this case. The decision should be issued by the end of next week.

## X. Calendar Items

### August 15, 1995

2 appeal considerations  
6:00 Appeal Hearing: 2350-2352 Polk St. P001-63A (acpt. 6/6/95;  
cont. from 8/1/95)  
New Business: AB 1164 (Hawkins-Costa Bill)

## XI. Adjournment

President Becker adjourned the meeting at 7:10 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.

August 15, 1995

25 Van Ness Avenue, #70, Lower Level

## AGENDA

DOCUMENTS DEPT.

AUG 14 1995

I.	Call to Order	SAN FRANCISCO PUBLIC LIBRARY
II.	Roll Call	
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Consideration of Appeals	
	A. 626-628-628A Hayes St. Q001-01A	
	The landlord appeals the dismissal of his capital improvement petition due to his failure to appear at the properly noticed hearing.	
	B. 3032 Steiner St. Q001-02R	
	The tenant appeals the decision certifying capital improvement costs on the basis of financial hardship.	
VI.	Communications	
VII.	Director's Report	
VIII.	Old Business	
IX.	Remarks from the Public (cont.)	
X.	New Business A. Hawkins-Costa Bill: AB 1164	
XI.	Appeal Hearing	
6:00	2350-52 Polk St. P001-63A (cont. from 8/1/95) (acpt. 6/6/95)	
XII.	Calendar Items	
	Adjournment	

## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

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"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accomodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accomodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.



FRANK M. JORDAN  
MAYOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, August 15, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

SF  
R52  
#2  
3/15/95

DOCUMENTS DEPT.  
AUG 29 1995

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

President L. Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Nash; Steane;  
Wasserman.

Commissioners not Present: B. Becker; Hayden; Marshall.  
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 5:45 p.m.;  
Commissioner How appeared at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 1, 1995.  
(Wasserman/Nash: 3-0)

IV. Consideration of Appeals

A. 626-628-628A Hayes St. Q001-01A

The landlord's petition for certification of capital improvement costs was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the landlord states that he was under a tight deadline for a work project, and therefore forgot the date of the hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Steane/Gruber: 5-0)

B. 3032 Steiner St. Q001-02R

The landlord's petition for certification of capital improvement costs was granted, in part, resulting in a monthly passthrough in the amount of \$275.77 [subject to the 10% limitation contained in Rules and Regulations Section 7.12(d)]. The tenant appeals the Decision on the basis of financial hardship. There are two other occupants in the unit, who are apparently sub-tenants of the tenant-appellant, and allegedly are not jointly and severally liable for the rent.



MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. The hearing officer will find out the relevant facts regarding the other occupants of the unit and decide the case accordingly.  
(Steane/Gruber: 4-1; Lightner dissenting)

V. Appeal Hearing

2350 Polk Street

P001-63A (cont. from 8/1/95)

The landlord's petition for certification of capital improvement costs associated with the rebuilding of a rear stairway was granted by the hearing officer. The tenants appealed the decision, alleging that the work was necessitated by deferred maintenance on the part of the landlord which had resulted in a code violation. The tenants' appeal was accepted and the case was remanded to the hearing officer, who issued a decision on the record denying certification of the cost of the work. The landlord appealed the remand decision, asserting that the fact that a Notice of Violation had been issued did not in of itself prove that the work was necessitated by deferred maintenance. The landlord's appeal was accepted and the case was again remanded. The hearing officer again denied certification, ruling that the presence of dry rot and absence of any records showing periodic inspection and/or repairs showed that the deferred maintenance defense was indeed applicable in this case. The landlord again appealed, on the grounds that the tenants failed to meet their burden of proving that the work was necessitated by the current landlord's deferred maintenance in that there is no maintenance method that the landlord could have employed that would have prevented the spread of dry rot. The Board voted to accept the appeal for hearing on the issue of whether the rear stairway and related roof work was necessitated by deferred maintenance on the part of the landlord.

The appeal hearing commenced at 6:20 p.m. In attendance was the landlord's representative and four witnesses; the tenant was present and represented herself. Testimony, particularly from a Professor of Mycology appearing on behalf of the landlord, focused on the nature of dry rot and the absence of effective preventative measures that can be taken to prevent its occurrence if either heart redwood or chemically treated wood was not used in construction. The tenant's testimony that minimal maintenance had been performed on the building throughout her tenancy was countered by the landlord's assertion that maintenance can actually exacerbate the problem of dry rot.

The hearing was concluded at 8:50 p.m. After discussion, the Commissioners passed the following motion:

MSC: To reverse the Decision of Hearing Officer and certify the costs of rebuilding the rear stairs in this building.  
(Gruber/Lightner: 4-1; L. Becker dissenting)

VI. Communications

The Commissioners received the following communications:

A. A Memo from Senior Hearing Officer Sandra Gartzman summarizing the disposition of petitions filed by landlords and tenants of Newly Covered Units under Proposition I.

B. A copy of the recently passed Hawkins-Costa Bill (AB 1164).

VII. Director's Report

Executive Director Grubb reported as follows:

A. A resolution urging that the Rent Board not allow the passthrough of costs related to Business Improvement Districts to low-income tenants passed its first reading before the Board of Supervisors.

B. Legislation mandating that billing for the rental unit fee that funds the Rent Board's operations shall go out on the property tax bill, instead of as a separate mailing, passed its first reading before the Board of Supervisors.

VIII. New Business

The Board engaged in a brief discussion of the Hawkins-Costa Bill (AB 1164) and agreed that Commissioners and staff will read the legislation, identify questions and issues requiring clarification through amendments to the Rules and Regulations, and discuss this issue at the next Board meeting.

IX. Calendar Items

August 22 & 29, 1995 - NO MEETINGS

September 5, 1995

5 appeal considerations

Old Business: Hawkins-Costa Bill (AB 1164)

X. Adjournment

President L. Becker adjourned the meeting at 9:30 p.m.



## **ACCESSIBLE MEETING POLICY**

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

(6/95)



FRANK M. JORDAN  
MAYOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,  
September 5, 1995

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

AGENDA

DOCUMENTS DEPT.  
AUG 29 1995  
SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 720 Central Ave. #4 Q001-02A

The landlord of a Newly Covered Unit under Proposition I appeals a Decision determining rent overpayments and granting a claim of decreased housing services.

B. 2450 Lake St. #2 P001-04R

The landlord appeals a Decision on Remand upholding a claim of decreased housing services.

C. 395 Eddy St. #31 Q001-03R

The tenant appeals the Dismissal of his petition alleging decreased housing services due to his failure to appear at the properly noticed hearing.

D. 700 Church St. #313 Q001-03A

The landlord appeals a Decision granting rent reductions due to decreased housing services.

E. 1901 Silver Ave. Q001-05R

The tenant appeals the Dismissal of his petition claiming a decrease in housing services on the grounds that he did not receive notice of the hearing.

VI. Communications

- VII. Director's Report
- VIII. Old Business
  - Hawkins-Costa Bill: AB 1164
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

15/95

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, September 5, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

SEP 15 1995

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

President L. Becker called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Hayden; How; Nash.  
Commissioners not Present: B. Becker; Lightner; Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 5:38 p.m.;  
Commissioner Steane arrived at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 15, 1995.  
(Gruber/How: 4-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network complimented Hearing Officer Alicia Wicks on the professionalism and fairness she displayed in conducting a hearing on a comparables petition for a Newly Covered Unit under Proposition I.

V. Consideration of Appeals

A. 720 Central Ave. #4

Q001-02A

The tenant of a Newly Covered Unit under Proposition I filed a petition alleging unlawful increases in rent and substantial decreases in housing services. The petition was granted in part and denied in part and the landlords were found liable to the tenant in the amount of \$855.00 for rent paid in excess of the amount in effect on May 1, 1994; and \$150.00 due to an insufficient heat source in the unit. The landlords appeal, alleging that they should not have to refund rent overpayments because the rent for the unit is less than 80% of "general market conditions"; and that the heater in question passed inspection by a City building inspector and is currently in working condition.



MSC: To continue the matter to the meeting on September 19th in order for staff to contact the parties and encourage them to work out the issue of the proper termination date for the rent reduction granted for the heater; to deny the appeal as to all other issues. (Marshall/How: 5-0)

B. 2450 Lake St. #2

P001-04R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$1,510.00 due to several habitability defects in the unit. On appeal, the landlord maintained that several of the conditions had been corrected prior to the issuance of the Decision of Hearing Officer and the case was remanded to ascertain the proper termination date for the rent reductions. The Decision of Hearing Officer on Remand, issued on the record, reduced the amount of the rent reductions to \$1,380.00, finding that several of the conditions had been corrected, as evidenced by an abatement stamp on the Notice of Violation. The tenant appeals the remand decision, providing evidence of continuing problems that have occurred since abatement of the original conditions.

MSC: To deny the appeal without prejudice to the tenant filing a new petition regarding any continuing or new issues that have arisen since the November 18, 1994 abatement of the October 13, 1994 Notice of Violation. (Marshall/How: 5-0)

C. 395 Eddy St. #31

Q001-03R

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. The tenant appeals, asserting that he moved and therefore had no notice of the hearing; he also claims that he left a forwarding address, and that all other mail was forwarded to him except for the Notice of Hearing.

MSC: To accept the tenant's appeal and remand the case for a new hearing or the issuance of a Dismissal Without Prejudice, at the tenant's election. (How/Marshall: 5-0)

D. 700 Church St. #313

Q001-03A

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$1,495.00 due to recurring roof leaks over a period in excess of four years. The landlord appeals, asserting that extraordinary circumstances sufficient to justify rent reductions for more than a one-year period do not exist, because the landlord took action to repair the roof each time the leaking recurred.

MSC: To accept the appeal and remand the case to the hearing officer on the record on the issue of the rent reductions granted for the period mid-February through mid-March, 1995,

considering that the roof was not leaking during that time.  
(Marshall/How: 5-0)

E. 1901 Silver Ave.

Q001-05R

The tenants' petition alleging decreased housing services was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants maintain that they failed to receive notice of the hearing. As the requested Declaration of Non-Receipt of Notice of Hearing had not been submitted, it was the consensus of the Board to continue this matter to the next meeting in order for staff to contact the tenants.

#### VI. Communications

The Commissioners received the office workload statistics for the month of July, 1995.

#### VII. Director's Report

Executive Director Grubb informed the Board that the new automated phone information system purchased by the agency this year will go on-line early next week. There will be in excess of 60 topics available to the public. Mr. Grubb stated that he would like to provide translation in Spanish and Chinese, which will cost approximately \$10-15,000. The Commissioners voiced their approval of his plan to go before the Board of Supervisors with a Supplemental Budget Request for this purpose. He also told the Commissioners that he will be on vacation from September 13, 1995 through October 1st.

#### VIII. Old Business

The Board briefly discussed the Hawkins-Costa Bill (AB 1164) and articulated their desire for clarification and suggestions as to areas for necessary amendments to the Ordinance and Rules and Regulations from the City Attorney's Office. Commissioner Marshall raised the issue of the effect of this legislation on the lifetime leases given to tenants pursuant to condominium conversion.

#### X. Calendar Items

September 12, 1995 - NO MEETING

September 19, 1995 - 6:00

6 appeal considerations (2 cont. from 9/5/95)  
Old Business: Hawkins-Costa Bill (AB 1164)

#### XI. Adjournment

President L. Becker adjourned the meeting at 6:45 p.m.



### **ACCESSIBLE MEETING POLICY**

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

(6/95)

# City and County of San Francisco



# Residential Rent Stabilization and Arbitration Board

FRANK M. JORDAN  
MAYOR

## NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

September 19, 1995

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

## AGENDA

## DOCUMENTS DEPT.

SEP 15 1995

SAN FRANCISCO  
PUBLIC LIBRARY

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 720 Central Ave. #4

Q001-02A  
(cont. from 9/5/95)

The landlord of a Newly Covered Unit under Proposition I appeals a Decision determining rent overpayments and granting a claim of decreased housing services.

B. 1901 Silver Ave.

Q001-05R  
(cont. from 9/5/95)

The tenant appeals the Dismissal of his petition claiming a decrease in housing services on the grounds that he did not receive notice of the hearing.

C. 909 Page St. #14

Q001-04A

Landlord appeal of a decision denying claims of failure to repair and unlawful rent increases but granting a claim of decreased housing services.

D. 2153 Sacramento St.

Q001-06R thru -11R

Six tenants appeal a decision certifying capital improvement costs and granting rent increases based on increased operating and maintenance expenses.

E. 3833 & 3835 - 24th St.

Q001-05A

Landlord appeal of a decision denying a claim of exemption from the Ordinance due to a finding that the owner's occupancy of the subject premises was not in "good faith".

F. 1011 Union St. #4

Q001-12R

One tenant appeals a decision granting rent increases due to the landlord's increase in operating expenses.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - Hawkins-Costa Bill: AB 1164
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

FRANK M. JORDAN  
MAYORMINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,LARRY BEACH BECKER  
PRESIDENTMERRIE T. LIGHTNER  
VICE-PRESIDENTTuesday, September 19, 1995 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

SEP 27 1995

SAN FRANCISCO  
PUBLIC LIBRARYI. Call to Order

President L. Becker called the meeting to order at 6:05 p.m.

II. Roll CallCommissioners Present: L. Becker; Gruber; Hayden; Lightner;  
David G. Gruber; Jonathan Hayden; Mamie How; Polly Marshall;

Katherine Nash; Catherine Steane; Sharon K. Wasserman.

Commissioners not Present: B. Becker; How.

Staff Present: Wolf.

III. Approval of the MinutesMSC: To approve the Minutes of September 5, 1995.  
(Marshall/Gruber: 5-0)IV. Remarks from the Public

Robert Pender of the Tenants' Network passed out a Tenants' Bill of Rights to the Commissioners and informed them of a joint Tenants' Network and Affordable Housing Alliance meeting to be held on September 27, 1995.

V. Consideration of Appeals

A. 720 Central Ave. #4

Q001-02A (cont. from 9/5/95)

The tenant of a Newly Covered Unit under Proposition 1 filed a petition alleging unlawful increases in rent and substantial decreases in housing services. The petition was granted in part and denied in part and the landlords were found liable to the tenant in the amount of \$855.00 for rent paid in excess of the amount in effect on May 1, 1994; and \$150.00 due to an insufficient heat source in the unit. The landlords appeal, alleging that they should not have to refund rent overpayments because the rent for the unit is less than 80% of "general market conditions"; and that the heater in question passed inspection by a City building inspector and is currently in working condition.

At their meeting on September 5, 1995, the Commissioners voted to continue this matter in order for staff to contact the parties and encourage them to work out the issue of the proper termination date for the rent reduction granted for the



heater. The appeal was denied as to all other issues. After receiving a report from the Deputy Director, the Board voted as follows:

MSC: To accept the appeal and remand the case on the issue of the proper termination date, if any, for the rent reduction granted for the lack of an insufficient heat source in the unit.  
(Marshall/Gruber: 5-0)

B. 1901 Silver Ave.

Q001-05R (cont. from 9/5/95)

The tenants' petition alleging decreased housing services was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants maintained that they failed to receive notice of the hearing. As the requested Declaration of Non-Receipt of Notice of Hearing had not been submitted, this matter was continued from the meeting on September 5th in order for staff to contact the tenants. Subsequently, the requisite Declaration of Non-Receipt of Notice was submitted.

MSC: To accept the appeal and remand the case for a new hearing.  
(Marshall/Lightner: 5-0)

C. 909 Page St. #14

Q001-04A

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable in the amount of \$358.71 due to lack of heat and a broken bathroom window. The tenant's claim that the landlords had failed to make requested repairs was denied because the tenant had failed to notify the landlords regarding code violations on the premises. The additional claim of unlawful rent increases was not substantiated. On appeal, the landlords maintain that they should not be held liable for the window problem prior to actual notice from the tenant; and that the hearing officer erred in holding that they should have known of the problem because they had inspected the premises after the Loma Prieta earthquake.

MSC: To accept the appeal on the issue of notice to the landlords of the broken window in the bathroom; if the problem was not readily visible, then actual notice had to have been given in order for a rent reduction to have been warranted.  
(Marshall/Gruber: 4-1; L. Becker dissenting)

D. 2153 Sacramento St.

Q001-06R thru -11R

The landlords' petition for certification of capital improvement costs and rent increases due to increased operating expenses related to their purchase of the building was approved, in part, by the hearing officer. One tenant (unit #6) appeals on the basis of financial hardship; this claim was continued to the October 3rd meeting because of a possible settlement between the parties. The tenants in five other units appeal on the following grounds: the landlords are not entitled to pass through the costs of capital improvements completed by a

prior owner because the definition of "landlord" in Ordinance Section 37.2(h) does not specifically include all prior owners of the property; increased debt service should not be the basis for rent increases when such debt was incurred due to purchase of the property, and not for capital improvement work; the landlords should not be allowed to compare their expenses with those of a prior owner because they knew the existing income and expenses on the building at the time of purchase, and presumably paid a commensurate sales price; debt service is not required for the operation and maintenance of a building, and therefore should not be an allowable expense; and a \$19,200.00 "hold-back" in escrow for roof work should be disallowed because it is impossible to determine whether these funds were part of the landlords' down payment or were instead used to perform the capital improvement work on the roof.

MSC: To deny the appeals. (Lightner/Gruber: 5-0)

E. 3833 & 3835 - 24th St.

Q001-05A

The tenants' petitions alleging unlawful increases in rent were granted and the landlord was found liable to one tenant in the amount of \$834.00 due to rent overpayments. Additionally, a noticed 398.53% increase to be effective May 1, 1994 was found to be of no force and effect, because the landlord had failed to owner-occupy the three-unit building in "good faith". The landlord owns four buildings of four units or less, and has demonstrated a pattern of moving into each building for a period of no more than 18 months, raising the rent to "market", and then moving out. In appealing the original Decision in this matter, the landlord argued that: because the hearing officer accepted documents after the close of the record which were not provided to the landlord, the landlord had been denied basic due process; the Decision relied on hearsay evidence, such as a newspaper article; and the facts did not support the hearing officer's conclusion that the landlord had not resided on the premises in good faith. At their meeting on November 29, 1994, the Board accepted the appeal and remanded the case to the hearing officer on the record to allow the landlord to respond to any submissions received from the tenants after the record had closed, and to make any necessary changes to the Decision.

The landlord filed for bankruptcy under Chapter 11 on February 14, 1995. Pursuant to the automatic stay provisions of the U.S. Bankruptcy Code, the Decision on Remand was not issued until relief from stay was proved by the landlord on July 25, 1995. The Decision on Remand upholds the original Decision, in that the noticed rent increases are found to be unlawful because the landlord has not occupied the subject premises "in good faith." The landlord appeals the Decision on Remand, arguing that: the Board has no jurisdiction over this matter, because at the time the notices were effective, the premises were exempt due to owner-occupancy; the Ordinance contains no "good faith" requirement for owner-occupancy exemption, and such a requirement cannot be imposed by Rule; Rules Section 1.15(e) does not permit an inquiry into an occupying owner's motive for living in a building; and the Decision is based on irrelevant, improper evidence and hearsay and cannot stand.

MSC: To deny the appeal. (Marshall/L. Becker: 5-0)

F. 1011 Union St. #4

Q001-12R

The landlord's petition for rent increases based on increased operating and maintenance expenses pursuant to his recent purchase of the building was granted, resulting in 7% base rent increases for the affected tenants. One tenant appeals, asserting that: tenants should not have to pay for a new owner's increased debt service when the purchaser knew what the rents were prior to entering into the investment; the new owner should not be allowed to compare his expenses with the former owner's, because the increased costs of financing create "exaggerated results"; debt service should not be looked at, because it is not a "fixed" expense, but is subject to the landlord's choice; and that the landlord's rate of profit on the building should have also been examined.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A letter from a tenant claiming to have been wrongfully evicted on three occasions.
- B. A current Rent Board staff roster.

#### VII. Director's Report

In the absence of the Executive Director, the Deputy Director informed the Commissioners that the volume of cases waiting to be scheduled for hearing is extremely high, and that this situation has been exacerbated by a hearing officer having recently gone out for two months on medical leave. Possible mitigating measures, including a mandatory mediation process, will be explored with Executive Director Grubb at the next meeting.

#### VIII. Old Business

The Deputy Director reported that Deputy City Attorney Mariam Morely will prepare something in writing regarding the provisions of the Costa-Hawkins Bill (AB 1164) and the need for amendments to the Ordinance and Rules and Regulations for discussion at the meeting of October 3rd or 17th.

#### IV. Remarks from the Public (cont.)

Ted Gullickson of the Tenants' Union reiterated that there is currently a tremendous delay between the filing of a petition and a hearing being scheduled.

IX. Calendar Items

September 26, 1995 - NO MEETING

October 3, 1995

8 appeal considerations (1 cont. from 9/19/95)  
Old Business: Costa-Hawkins Bill (AB 1164)

October 10, 1995 - NO MEETING

X. Adjournment

President L. Becker adjourned the meeting at 7:30 p.m.

## ACCESSIBLE MEETING POLICY

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# City and County of San Francisco



## Residential Rent Stabilization and Arbitration Board

FRANK M. JORDAN  
MAYOR

### NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

Tuesday, 5:30 p.m.,  
October 3, 1995

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

### AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

DOCUMENTS DEPT.

SEP 27 1995

SAN FRANCISCO  
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A. 2153 Sacramento St. #6 Q001-06R  
(cont. from 9/19/95)

The tenant appeals the decision certifying capital improvement costs on the basis of financial hardship.

B. 1097 York St. #3 Q001-06A

The landlord appeals a decision determining rent overpayments resulting from the filing of a Tenant Summary Petition.

C. 1635 Gough St. Q001-13R & Q001-07A

The landlord appeals the decision certifying capital improvement costs on the grounds of fair return on investment; one tenant appeals on the basis of financial hardship.

D. 628 Masonic Ave. Q001-14R

The tenant appeals the decision partially granting a claim of decreased housing services.

E. 550 Battery St. #1208 Q001-15R

One tenant appeals the remand decision determining the allowable rate of interest on the landlord's capital improvement costs.

F. 149-1/2 Bronte St. Q001-16R

The tenant appeals the decision partially granting a decrease in services claim.

G. 257 So. Van Ness Ave. Q001-08A

The landlord appeals the decision determining rent overpayments and noting decreased housing services for the record.

H. 8101 Geary Blvd. #103 Q001-09A

The landlord appeals the decision granting a claim of unlawful rent increases.

VI. Communications

VII. Director's Report

VIII. Old Business

Costa-Hawkins Bill: AB 1164

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, October 3, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

OCT 11 1995

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

President L. Becker called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Hayden; Marshall;  
Nash; Steane.

Commissioners not Present: B. Becker; How; Wasserman.

Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 5:37 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 19, 1995.  
(Marshall/Gruber: 4-0)

IV. Consideration of Appeals

A. 2153 Sacramento St. #6

Q001-06R

(cont. from 9/19/95)

The landlords' petition for certification of capital improvement costs and rent increases due to increased operating expenses related to their purchase of the building was approved, in part, by the hearing officer. The tenant in one unit in the building appealed on the basis of financial hardship; this claim was continued from the meeting on September 19th because of a possible settlement between the parties.

MSC: To accept the agreement of the parties and find sufficient hardship to warrant deferral of the capital improvement passthrough to this tenant unless and until the tenant's financial circumstances should change.  
(Marshall/Hayden: 5-0)

B. 1097 York St. #3

Q001-06A

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

The tenant filed a Summary Petition alleging an unlawful increase in rent, which was later set for hearing. In the Decision of Hearing Officer, the landlord was found liable in the amount of \$5,220.00 due to rent overpayments. On appeal, the landlord asserts that he and the tenants had operated in reliance on a letter from the former Deputy Director of the Rent Board regarding the proper base rent amount, and that he should not now be held liable for her mistake.

MSC: To deny the appeal. (Hayden/Marshall: 3-2; Gruber, Lightner dissenting)

C. 1635 Gough St.

Q001-13R & Q001-07A

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. Because of the 10% annual "cap" on increases due to capital improvement costs, the amount of \$11.04 will be carried forward for one tenant; this tenant appeals the decision on the basis of financial hardship. The landlords appeal on the grounds that the hearing officer should have granted an interest rate equal to or greater than that which the landlords are paying to finance the work; and the 10% "cap" should be waived in this case, because the landlords are receiving no return on the property. Prior to the meeting, the landlords submitted a request for postponement of consideration of their appeal, because they had not received the Notice of Appeal Consideration and therefore had not submitted a brief on the issues raised in their appeal.

MSC: To recuse Commissioner Lightner from consideration of this matter. (Gruber/Marshall: 5-0)

MSC: To grant the landlords' request and postpone consideration of their appeal to the October 17, 1995 meeting. (Hayden/Marshall: 4-0)

MSC: To accept the tenant's appeal and remand the case to a hearing officer on the issue of the tenant's alleged financial hardship. (Marshall/Gruber: 4-0)

D. 628 Masonic Ave.

Q001-14R

The tenant's petition alleging a substantial decrease in housing services was granted in part and denied in part. The hearing officer found that the landlord was liable to the tenant in the amount of \$135.00 for a one-month period of time when the tenant had no access to the garage for parking his vehicle; no on-going reduction in rent was found to be warranted for the tenant's having been assigned a different, and slightly less convenient, parking space in the garage. The tenant appeals, asserting that he is entitled to use of the entire garage; and that subsequent to the close of the record in this matter, he has procured evidence that proves that he was subject to an unlawful rent increase because the building was not exempt due to having been occupied by an owner of record.

MSC: To accept the tenant's appeal and remand the case for a new hearing only on the issue of Rent Board jurisdiction with regard to the tenant's rent history; to deny the appeal as to the decreased housing services claim. (Marshall/Gruber: 5-0)

E. 550 Battery St. #1208

Q001-15R

The landlord's petition for certification of capital improvement costs was granted. 261 tenants appealed the decision alleging that the allowance of 10% imputed interest, without any evidence of the actual cost of funds, was an abuse of discretion on the part of the hearing officer. The appeals were accepted and the case was remanded on the question of the source of the funds used by the landlord to perform the capital improvement work. The landlord subsequently provided sufficient proof that the actual cost of the funds was in excess of 10%, and therefore the original decision was upheld as to the allowance of 10% interest. One tenant appeals the Decision on Remand, alleging that the tenants should not have to pay for work that caused a large degree of disruption in their daily lives.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

F. 149-1/2 Bronte St.

Q001-16R

This appeal was withdrawn prior to the meeting.

G. 257 So. Van Ness Ave.

Q001-08A

The tenants' petition alleging unlawful increases in rent was granted and the landlords were found liable to the tenants in the amount of \$8,929.76 due to a large rent increase subsequent to major rehabilitation of the building necessitated by the Loma Prieta earthquake. The tenants' claims of decreased housing services were noted for the record but the tenants did not want rent reductions to be granted because the landlords are experiencing financial difficulties. On appeal, the landlords allege that: there are mistakes as to the rent history in the Decision of Hearing Officer; the rent refund is unfair because at no time did the cumulative rent charged exceed the amount that would have been permitted under the Ordinance; the work done justified a much larger increase than that which was imposed, except that proper procedures were not followed; and the refund constitutes a hardship for both of the partners who own the property.

MSC: To accept the landlords' appeal and remand the case to the hearing officer on the issue of the correct base rent and landlord hardship. (Marshall/Gruber: 5-0)

H. 8101 Geary Blvd. #103

Q001-09A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$4,411.34 due to an

increase given prior to the anniversary date which also included a capital improvement passthrough in base rent for purposes of calculating the annual increase. On appeal, the landlord asks the Board to waive its Rules and allow a 7% increase the landlord would have been entitled to had they waited just 18 more days; and argues the equitable defense of laches since the unlawful increase occurred in 1983.

MSC: To accept the landlord's appeal and remand the case for a new hearing to consider the equitable defense of laches.  
(Hayden/Gruber: 5-0)

#### V. Communications

The Commissioners received a copy of an Annual Summary of All Petitions filed within the last fiscal year.

#### VI. Director's Report

Executive Director Joe Grubb informed the Commissioners that the new automated phone system is up and running. He also addressed the causes and some possible solutions to the long-standing problems of timely hearings and decisions, which have recently been exacerbated by the passage of Proposition I, a 20% increase in the number of petitions, several personnel changes in the hearing officer staff, vacations, bereavement and medical leaves. Mr. Grubb and staff are exploring several possible mitigation measures, including the development of a mandatory mediation process, and the Commission will be given on-going progress reports with an eye toward re-examining this issue in February or March of next year.

#### VII. Old Business

The Deputy Director informed the Commissioners that Deputy City Attorney Mariam Morely is working on a draft memorandum regarding implementation issues and questions pertaining to the recently enacted Costa-Hawkins Bill (AB 1164), which she hopes to address at the October 17th meeting.

#### VIII. Remarks from the Public

Ted Gullickson of the Tenants' Union addressed the issue of the current backlog of cases waiting to be heard and strongly urged that more hearing officers be hired, especially in light of additional revenues related to the passage of Proposition I. He also expressed concerns regarding implementation of a mandatory mediation process and asked that the tenant and landlord communities be kept informed as this project develops.

#### IX. Calendar Items

October 10, 1995 - NO MEETING

October 17, 1995

5 appeal considerations (1 cont. from 10/3/95)  
Old Business: Costa-Hawkins Bill (AB 1164)

October 24, 1995

5 appeal considerations  
Old Business: Costa-Hawkins Bill (AB 1164)

October 31st and November 7th, 1995 - NO MEETINGS

X. Adjournment

President L. Becker adjourned the meeting at 7:25 p.m.



FRANK M. JORDAN  
MAYOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

LARRY BEACH BECKER  
PRESIDENT

Tuesday, 5:30 p.m.,  
October 17, 1995

MERRIE T. LIGHTNER  
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

AGENDA

BARIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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OCT 11 1995

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A. 1635 Gough St. Q001-07A  
(cont. from 10/3/95)

The landlord appeals the decision certifying capital improvement costs on the grounds of fair return on investment.

B. 410 Eddy St. #308 Q001-17R

The tenant appeals the decision regarding his claim of decreased housing services.

C. 738 Haight St. Q001-10A

The landlord of a Newly Covered Unit under Proposition I appeals the denial of his petition for rent increases due to comparables.

D. 941 Capp St. Q001-11A

The landlord appeals the decision granting a claim of decreased housing services.

E. 2051 Scott St. #401 Q001-12A

The landlord appeals the decision denying a petition for extension of time to do capital improvement work.

- VI. Communications
- VII. Director's Report



VIII. Old Business

Costa-Hawkins Bill: AB 1164

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment

# City and County of San Francisco



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# 2  
10/17/95  
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# Residential Rent Stabilization and Arbitration Board

FRANK M. JORDAN  
MAYOR

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, October 17, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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### I. Call to Order

President L. Becker called the meeting to order at 5:40 p.m.

### II. Roll Call

Commissioners Present: L. Becker; Gruber; How; Marshall; Nash;  
Wasserman.

Commissioners not Present: B. Becker; Hayden; Steane.  
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:00 p.m.  
Commissioner L. Becker went off the record from 6:00 to 6:30 p.m.

### III. Approval of the Minutes

MSC: To approve the Minutes of October 3, 1995.  
(Marshall/Gruber: 3-0)

### IV. Consideration of Appeals

A. 1635 Gough St.

Q001-07A  
(cont. from 10/3/95)

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. Because of the 10% annual "cap" on increases due to capital improvement costs, the amount of \$11.04 will be carried forward for one tenant; this tenant's appeal on the grounds of financial hardship was accepted by the Commissioners at the October 3rd meeting and remanded for a hearing before a hearing officer on this issue. The landlords' appeal was continued from the October 3rd meeting due to their not having received the Notice of Appeal Consideration. The landlords cite the case of Kavanau v. Santa Monica Rent Control Board and assert on appeal that the hearing officer should have granted an interest rate equal to or greater than that which the landlords are paying to finance the work, and the 10% annual "cap" on capital improvement passthroughs should be waived in this case, because the landlords are receiving no return on the property.



MSC: To excuse Commissioner Lightner from consideration of this appeal. (Gruber/Marshall: 5-0)

This matter was discussed by the Commissioners and then continued to later on the agenda because President L. Becker had to leave the meeting for a short period of time.

B. 410 Eddy St. #308

Q001-17R

The tenant's petition alleging substantial decreases in housing services was denied. The hearing officer found that the tenant had not met his burden of proof. In his petition and at the hearing, the tenant complained of unauthorized entry into his hotel room and the existence of high intensity ultrasonic sounds, gas, excessive heat, micro shocks, unpleasant images and a hidden microphone or speaker in his unit. The tenant believes that another tenant or tenants are causing these occurrences. On appeal, the tenant maintains that the hearing officer's finding that these alleged conditions are not within the landlord's control is in error, because the landlord is responsible for providing a habitable unit.

MSC: To deny the appeal. (Gruber/Marshall: 4-0)

C. 738 Haight St.

Q001-10A

The landlord's petition for a rent increase based on comparables for a Newly Covered Unit under Proposition I was denied because the hearing officer found that the landlord had failed to prove that the initial rent was set very low due to extraordinary circumstances. While it is true that the tenant was the grand-son of the prior owner of the property, and a special relationship between the parties did exist, the hearing officer found that it was not proved that the initial rent had been set low due to the special relationship between the parties. On appeal, the landlord alleges that the hearing officer abused her discretion and exhibited bias against him by finding only the tenant's evidence and testimony to be credible.

MSC: To accept the landlord's appeal and remand the case to a new hearing officer on the issue of the proposed rent increase based on comparables and to obtain assurance that the landlord has the authority to act on behalf of the estate as the Special Administrator. (Lightner/Gruber: 3-1; Marshall dissenting)

D. 941 Capp St.

Q001-11A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$1,740.00 due to the loss of storage and garage spaces. On appeal, the landlord asserts that the value of services heretofore but no longer provided by

the tenant should be offset against the amount of the rent reductions granted to the tenant.

MSC: To accept the appeal and remand the case to the hearing officer on the record for clarification of the issue of valuation of services previously provided by the tenant.  
(Lightner/Gruber: 5-0)

E. 2051 Scott St. #401

Q001-12A

The landlord's petition for extension of time to complete capital improvement work was denied because the hearing officer found that the landlord had not filed the petition in a timely manner because the landlord should have known that the work was going to take longer than the three-month period authorized under the Ordinance; and that the landlord's reasons for the work having taken longer were not valid. On appeal, the landlord asserts that the petition became moot because the tenant was offered re-occupancy of the unit one week prior to the date requested in the petition; that the landlord relied on the representations of her contractor that the work would be completed within the allowable time period; and that the tenant had contributed to the delay in commencement of the project.

MSC: To deny the appeal. (Marshall/Wasserman: 3-2;  
Gruber, Lightner dissenting)

A. 1635 Gough St.

Q001-07A (cont.)

MSC: To excuse Commissioner Lightner from consideration of this case. (Gruber/Marshall: 5-0)

The Commissioners continued their discussion of this matter and passed the following motion:

MSC: To deny the appeal. (Marshall/L. Becker: 5-0)

## V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memorandum from the Mayor's Office regarding the status of city employees during a declared emergency.

B. The insert regarding payment of the Rental Unit Fee that is now going out with property tax bills.

C. The menu of topics for "Information To Go", the Rent Board's 24-hour information and counseling line.

VI. Director's Report

Executive Director Grubb informed the Commissioners that the Rent Board will have an address on the Internet in late-November or December. Copies of the Ordinance and Rules, Fact Sheets and other information will be available to the public through the Net. Mr. Grubb also informed the Commissioners that, in accordance with legislation passed by the Board of Supervisors, the Mayor's Office has urged the Board to pass Rules prohibiting the pass-through of assessments related to Business Improvement Districts to low-income tenants. As Rules Section 6.10(b), pertaining to Special Real Estate Taxes, specifically excepts the passthrough "of any charge approved by a majority of affected property owners", it was the consensus of the Board that this request requires no further action.

VII. Old Business

Deputy City Attorney Mariam Morely will begin a discussion of the provisions of the Costa-Hawkins Bill (AB 1164) at next week's meeting.

VIII. Calendar Items

October 24, 1995

5 appeal considerations

Executive Session: Litigation

Old Business: Costa-Hawkins Bill (AB 1164)

October 31 & November 7, 1995 - NO MEETINGS

IX. Adjournment

President L. Becker adjourned the meeting at 7:30 p.m.

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,

October 24, 1995

25 Van Ness Avenue, #70, Lower Level

## AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Executive Session

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## VI. Consideration of Appeals

A. 833 - 14th St.

Q001-14A

Landlord appeal of a decision partially granting rent increases due to the past rent history of a Newly Covered Unit under Proposition I.

B. 626 Hayes St.

Q001-13A

The landlord asks that the "6-month rule" be waived for certification of capital improvement costs to a Newly Covered Unit under Proposition I.

C. 2038 Leavenworth St.

Q001-15A

The landlord appeals the portion of the decision finding the notice of rent increase deficient for increases based on past rent history of a Newly Covered Unit under Proposition I.

D. 63 Paramount Terr.

Q001-16A

The landlord appeals the portion of the decision finding unlawful rent increases based on the issue of whether a new or on-going tenancy existed pursuant to Rules Section 6.14.

Post-It Note	7671
To:	Leavenworth
Co. Order	Proposed
Phone #	233X
Fax #	252-4696
From:	Proposed
Date:	Oct 20, 1995
Pages:	2



E. 3044 Webster St.

Q001-18R

The tenant appeals the portion of the decision granting rent reductions due to decreased housing services but finding that repairs had been effectuated when the problem reoccurred after only four weeks.

- VII. Communications
- VIII. Director's Report
- IX. Old Business
  - Costa-Hawkins Bill: AB 1164
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment



City and County of San Francisco



Residential Rent Stabilization and  
Arbitration Board

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, October 24, 1995 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

SF  
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#2  
10/24/95

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I. Call to Order

President L. Becker called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; How; Lightner; Marshall; Nash; Wasserman.

Commissioners not Present: B. Becker; Hayden; Steane.  
Staff Present: Grubb; Wolf.

III. Executive Session

The Commissioners went into Executive Session with Deputy City Attorney Mariam Morely pursuant to Government Code Section 54956.9(a) from 6:10 to 6:20 p.m. to discuss the case of Hislop v. S.F. Rent Board (Superior Court Case No. 961-976).

IV. Old Business

The Commissioners briefly discussed the Costa-Hawkins Bill (AB 1164) with Deputy City Attorney Mariam Morely, focusing on the questions that they wish her to address in writing.

V. Consideration of Appeals

A. 833 - 14th St.

Q001-14A

The landlord filed a petition for rent increases for two units based on the past rent histories of newly covered units under Proposition I. A 15.2% increase was granted for one of the units in the building. However, no increase was allowed for the other unit because the tenant had voluntarily increased his own rent in 1994. On appeal, the landlord maintains that he should not be punished for a rent increase that he did not impose and that was proffered by the tenant to help offset the costs of the installation of a new furnace in his unit.

After discussion, it was the consensus of the Board to continue this case to the next meeting in order for staff to explore settlement possibilities with the parties.

B. 626 Hayes St.

Q001-13A

The landlord's petition for certification of capital improvement costs to three newly covered units under Proposition I was granted, in part. Pursuant to Rules Section 7.12(b), the passthrough of costs was disallowed to the tenants in one unit, who had moved in prior to or within six months of the work having been performed. On appeal, the landlord asserts that the six-month Rule should be waived in this case because he had not set the initial rent for the unit at a level high enough to recoup the costs of the work, because he knew he would be able to raise the rent without limitation at a future point in time.

MSC: To deny the appeal. (Marshall/Wasserman: 4-1; Lightner dissenting)

C. 2038 Leavenworth St.

Q001-15A

The landlord's petition for increases based on the past rent histories of newly covered units under Proposition I and certification of capital improvement costs was granted, in part. The landlord appeals the portion of the hearing officer's decision finding that proper notice of the capital improvement passthrough had been given but that proper notice of the comparables increase had not. On appeal, the landlord asserts that notice of both had properly been given at the same time and on the same notice.

MSC: To accept the appeal and remand the case to the hearing officer for a technical correction on the issue of the legality of the notice of rent increase.  
(Lightner/Marshall: 5-0)

D. 63 Paramount Terr.

Q001-16A

The tenants' petition alleging an unlawful increase in rent and a substantial decrease in housing services was granted. The landlord was found liable to the tenants in the amount of \$210.00 due to unpleasant odors in the unit due to problems with the sewer system. Additionally, the landlord was found liable in the amount of \$644.00 due to a \$26.00 per month rent increase which was found to be null and void. The hearing officer found that the current occupants of the unit had established a new tenancy at a monthly rent of \$1,350.00 while the landlord asserts that the tenancy is a continuing one at a rent of \$1,416.00 per month. On appeal, the landlord asserts that there is no new tenancy because notice was not given under Rules Section 6.14.

MSC: To accept the appeal and remand the case to the same hearing officer for a hearing on the issue of whether the tenancy was terminated, regardless of whether the tenants had vacated the unit. (Lightner/Gruber: 5-0)

E. 3044 Webster St.

Q001-18R

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted, in part. The landlord was found liable to the tenant in the amount of \$962.50 and the annual rent increase was ordered deferred due to several habitability defects on the premises. The tenant appeals the portion of the decision that finds that the bathroom ceiling and leak had been repaired, stating that the repairs only lasted for a period of four weeks.

MSC: To accept the appeal and remand the case for a new hearing on the issue of the bathroom ceiling and leak repairs.  
((Marshall/L. Becker: 5-0)

VI. Calendar Items

October 31 & November 7, 1995 - NO MEETINGS

November 14, 1995

9 appeal considerations (1 cont. from 10/24/95)

Old Business: Costa-Hawkins Bill (AB 1164)

New Business: Ellis Act Amendments

VII. Adjournment

President L. Becker adjourned the meeting at 7:20 p.m.

**ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

(6/95)



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,  
November 14, 1995  
25 Van Ness Avenue, SUITE 320

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 833 - 14th St. Q001-14A  
(cont. from 10/24/95)

Landlord appeal of a decision partially granting rent increases due to the past rent history of a Newly Covered Unit under Proposition I.

B. 1209 Waller St. Q001-19R

Tenant appeal of a decision certifying capital improvement costs.

C. 470 Collingwood St. Q001-17A

Landlord appeal of a decision partially certifying capital improvement costs on the grounds that window replacement constitutes a structural as opposed to individual unit improvement.

D. 736 Dolores St. Q001-18A

Landlord appeal of a decision partially granting a claim of decreased housing services.

E. 1214 Newhall St. Q001-19A

Landlord appeal of a decision granting a decreased services claim on the grounds that he failed to receive notice of the hearing.

F. 2689-2699 Bryant St.

Q001-20A

The landlord appeals the decision granting a claim of decreased housing services, alleging that the tenant failed to provide access to the unit.

G. 15 Noe St., Apt. B

Q001-21A

The landlord appeals the portion of the decision requiring that 30-day notice be provided for the restoration of the prior base rent amount when the services had been restored prior to the decision's having been issued.

H. 2201 Laguna St. #609

Q001-20R

The tenant appeals the decision denying a claim of unlawful rent increase.

I. 725 Corbett St. #11

Q001-22A

The landlord appeals the decision granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Costa-Hawkins Bill: AB 1164

IV. Remarks from the Public (cont.)

IX. New Business

Eviction Procedures under Ordinance Section 37.9(a)(13) and Rules Section 12.18 (Ellis)

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, November 14, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 320

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1/14/95

I. Call to Order

President L. Becker called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Hayden; How; Lightner;  
Nash; Steane.

Commissioners not Present: B. Becker; Wasserman.

Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 17, 1995.  
(Lightner/Gruber: 4-0)

MSC: To approve the Minutes of October 24, 1995.  
(Gruber/Lightner: 4-0)

IV. Consideration of Appeals

A. 736 Dolores St.

Q001-18A

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$1,378.00 due to the loss of use of a washer and dryer on the premises, restricted use of the common back yard, and discontinuance of a security alarm service. The landlords appeal, asserting that: the problem with use of the back yard has to do with a personality conflict between the petitioner and the occupants of another unit in the building; the tenant has been compensated for the discontinuance of the alarm service because the landlords failed to impose the full amount of annual rent increase they were entitled to; use of the washer and dryer was allowed as a courtesy and were not housing services provided in conjunction with the tenancy; and a permanent rent reduction for loss of the washer and dryer does not reflect the agreement of the parties that use of the machines would terminate once the appliances were no longer operational.

MSC: To accept the appeal and remand the case to the hearing officer, on the record if possible, to make an equitable and final determination of the remaining life span of the washer and dryer and grant an appropriate rent reduction, not to include the tenant's time spent in doing the laundry; to deny as to all other issues. (Lightner/Gruber: 5-0)

B. 470 Collingwood St.

Q001-17A

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The landlord appeals the portion of the decision finding that window replacement in unit #9 benefited the tenants in that unit only. The landlord argues on appeal that the window replacement constituted a structural improvement which benefited all of the units in the building because the elimination of air and water leakage halted further deterioration of the building.

MSC: To accept the appeal and remand the case to the hearing officer on the record to clarify the reason for determining that the window replacement in unit #9 benefited the tenants in that unit only, or, if it is determined that the window replacement constituted a structural improvement, to make necessary corrections to the decision.

(Gruber/L. Becker: 5-0)

C. 2201 Laguna St. #609

Q001-20R

The tenant's petition alleging an unlawful increase in rent was denied because the rent increase at issue was found by the hearing officer to be within limitations. The tenant appeals, that the landlord can only increase the rent as of November, which has been the landlord's practice in the past. Additionally, the tenant maintains that the increase should be determined to be null and void because the landlord incorrectly stated that he was imposing a "banked", as opposed to an "annual" increase; that an increase granted due to increased operating expenses should nullify any banking rights the landlord might have had; and that the hearing officer was biased because she had granted the landlord's operating expense petition.

MSC: To deny the appeal, except for a technical correction as to the date the hearing was held. (Lightner/Gruber: 5-0)

D. 1209 Waller St.

Q001-19R

The landlord's petition for certification of capital improvement work in one unit of the building was granted, in part, resulting in a \$252.68 monthly passthrough to the tenants in that unit (subject to the 10% "cap"). The tenants appeal the decision, asserting that: the landlord defrauded the estimator by showing receipts that were actually for work to a different unit; much of the work was necessitated by the landlord's deferred maintenance which resulted in code

violations; the landlord should not be entitled to interest on his own uncompensated labor costs; and, since much of the work resulted from a lawsuit and settlement agreement between the parties, allowing the landlord to pass through the costs negates the benefits of the settlement to the tenants.

MSF: To deny the appeal. (Lightner/Gruber: 2-3; L. Becker, Hayden, Marshall dissenting)

MSC: To accept the appeal and remand the case to the hearing officer on the record to delete the allowance of interest on the landlord's uncompensated labor and recalculate the allowable passthroughs accordingly. (Hayden/Marshall: 3-2; Gruber, Lightner dissenting)

E. 833 - 14th St.

Q001-14A

(cont. from 10/24/95)

The landlord filed a petition for rent increases for two units on the past rent histories of newly covered units under Proposition I. A 15.2% increase was granted for one of the units in the building. However, no increase was allowed for the other unit because the tenant had voluntarily increased his own rent in 1994. On appeal, the landlord maintained that he should not be punished for a rent increase that he did not impose and that was proffered by the tenant to help offset the costs of the installation of a new furnace in his unit. At their meeting on October 24th, the Commissioners continued this matter in order for staff to contact the parties and explore settlement possibilities. The landlord has since rescinded the 1994 increase and refunded the amounts paid by the tenant in full.

MSC: To accept the appeal and remand the case to the hearing officer on the record on the issue of the proposed comparables increase based on past rent history.  
(Lightner/Gruber: 5-0)

E. 1214 Newhall St.

Q001-19A

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$4,530.00 due to serious habitability defects on the premises. The landlord, who failed to appear at the hearing, appeals on the grounds that he failed to receive notice of the hearing. Attached to his appeal is the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Gruber/Lightner: 5-0)

F. 2689-2699 Bryant St.

Q001-20A

The tenant's petition alleging decreases in housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$3,080.00 due the lack of heat in the unit, bathroom ceiling leaks and inadequate security due to the condition of the front and back doors to the unit. On appeal, the landlords allege that the tenant failed to provide access to the unit in order for a replacement heater to be installed; and that a letter purportedly putting the landlords on notice of the heat problem was never received by the landlords and casts doubts on the petitioner's credibility.

MSC: To deny the appeal. (Marshall/Hayden: 4-1; Gruber dissenting)

G. 15 Noe St., Apt. B

Q001-21A

This matter was settled between the parties and the appeal was withdrawn prior to the meeting.

I. 725 Corbett St. #11

Q001-22A

The tenant's petition alleging a substantial decrease in housing services was granted and the landlord was found liable to the tenant in the amount of \$818.75 (\$225.00 per month) due to severe leaking and resulting water damage in the unit. On appeal, the landlord asserts that: the hearing officer granted an amount that is excessive, especially for a period of time when the problem was partially remedied; the amount granted is greater than that requested in the tenant's petition; the tenant limited the landlord's access to the unit by insisting on being present when work was being performed; and that the unusually wet winter prevented the roof work from being done expeditiously, which was beyond the landlord's control.

MSC: To deny the appeal. (Gruber/Hayden: 5-0)

#### V. Communications

The Commissioners received copies of several pleadings in the case of Hislop v. S.F. Rent Board (Superior Court Case No. 972898), currently on appeal by the Rent Board.

#### VI. Director's Report

Executive Director Grubb discussed a letter from the Mayor to commission presidents and department heads setting out budget directives for the next fiscal year. Specific guidelines for City departments include: a 15% reduction in staff to be phased in over a 3-year period; greater contracting out of services currently performed by City employees; permanent elimination of all vacant positions; etc.

VII. Old Business

A confidential memorandum from Deputy City Attorney Mariam Morely regarding the provisions of the Costa-Hawkins Bill (AB 1164) will be received by the Board prior to the next meeting.

VIII. New Business

Commissioners Marshall and Lightner volunteered to work with Senior Hearing Officer Sandy Gartzman on possible amendments to eviction procedures under Ordinance Section 37.9(a)(13) and Rules Section 12.18 (Ellis).

IX. Calendar Items

November 21, 1995 - NO MEETING

November 28, 1995

2 appeal considerations

Old Business: Costa-Hawkins Bill (AB 1164)

X. Adjournment

President L. Becker adjourned the meeting at 7:30 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,  
November 28, 1995  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

I.	Call to Order	NOV 22 1995
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Consideration of Appeals	
	A. 2195 Beach St.	Q001-23A
	The landlord appeals the denial of a petition for rent increases based on increased operating expenses.	
	B. 323 Capp St.	Q001-24A
	The landlord appeals a decision granting rent reductions due to decreased housing services.	
VI.	Communications	
VII.	Director's Report	
VIII.	Old Business	
	Costa-Hawkins Bill: AB 1164	
IV.	Remarks from the Public (cont.)	
IX.	New Business	
X.	Calendar Items	
XI.	Adjournment	



## ACCESSIBLE MEETING POLICY

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## Know Your Rights Under the Sunshine Ordinance

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(11/95) lk/comm/accmtg



**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

Tuesday, November 28, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

DEC 13 1995

SAN FRANCISCO  
PUBLIC LIBRARY

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

**I. Call to Order**

President L. Becker called the meeting to order at 5:40 p.m.

**II. Roll Call**

Commissioners Present:	L. Becker; Gruber; Hayden; Lightner; Nash; Wasserman.
Commissioners not Present:	B. Becker; How; Steane.
Staff Present:	Grubb; Wolf.

Commissioner Marshall appeared on the record at 5:43 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of November 14, 1995.  
(Hayden/Gruber: 4-0)

**IV. Consideration of Appeals**

A. 2195 Beach St.

Q001-23A

The landlord's petition for rent increases based on increased operating expenses was denied due to significant problems with the landlord's petition and supporting documentation. On appeal, the landlord submits a completely revised and reorganized petition, along with the required evidence.

MSC: To accept the appeal and remand the case to the hearing officer on the record to consider whether the revised petition meets the standard of proof required for rent increases based on increased operating expenses.  
(Marshall/Gruber: 5-0)

B. 323 Capp St.

Q001-24A

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,057.50 due to various habitability defects on the premises. On appeal, the landlords assert that had the tenants been cooperative in allowing access for repairs to be



made, the conditions would have been rectified four months earlier and the rent reductions should be reduced commensurately.

MSC: To deny the appeal. (Hayden/Gruber: 5-0)

#### V. Old Business

Deputy City Attorney Mariam Morely informed the Board that in the case of Hislop and Collier v. S.F. Rent Board (Superior Court Case No. 961-976), the judge granted the issuance of a peremptory Writ prohibiting the passthrough of "Special Real Estate Taxes" without consideration of the landlord's other operating and maintenance expenses on the building. In the case of Hudson and Boesch v. S.F. Rent Board (Superior Court Cases Nos. 965026 and 965461), Orders granting the landlords' Petition for Writ of Mandate and denying the tenants' Cross-Petitions were issued on November 16, 1995. All of the above-cited cases will be discussed with Ms. Morely at the next meeting in Executive Session.

The Board's scheduled discussion of the Costa-Hawkins Bill (AB 1164) was continued to the next meeting because the Commissioners did not receive a confidential memorandum from the Office of the City Attorney until just before this evening's meeting.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. The November 1995 issue of San Francisco Apartment.
- B. The office workload statistics for the month of October, 1995.

#### VII. Director's Report

Executive Director Grubb invited the Commissioners to the office holiday party, which will be held on December 19th at approximately 2:30 p.m.

#### VIII. Calendar Items

December 5, 1995

2 appeal considerations

Executive Session: Litigation

Old Business: Costa-Hawkins Bill: AB 1164

December 12, 19 and 26, 1995 - NO MEETINGS

#### IX. Adjournment

President L. Becker adjourned the meeting at 6:45 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,  
December 5, 1995  
25 Van Ness Avenue, #70, Lower Level

## AGENDA

DOCUMENTS DEPT.

I.	Call to Order	DEC 1 1995
II.	Roll Call	SAN FRANCISCO PUBLIC LIBRARY
III.	Approval of the Minutes	
IV.	Remarks from the Public	
V.	Consideration of Appeals	
	A. 2467 - 31st Ave.	Q001-25A
	The landlord appeals a decision granting a claim of decreased housing services.	
	B. 2656 Van Ness Ave.	Q001-26A
	The landlord appeals the decision granting rent reductions due to decreased housing services, claiming non-receipt of notice of hearing.	
VI.	Executive Session	
	Litigation - Government Code Section 54956.9(a) <u>Hislop and Collier v. S.F. Rent Board</u> (Superior Court Case No. 961-976) <u>Hudson and Boesch v. S.F. Rent Board</u> (Superior Court Case No. 965026)	
VII.	Old Business	
	Costa-Hawkins Bill: AB 1164, Including Possible Waiver of Confidentiality as to Attorney/Client Communication from the Office of the City Attorney	
VIII.	Communications	
IX.	Director's Report	

- 1      IV.    Remarks from the Public (cont.)
- 2      X.     New Business
- 3      XI.    Calendar Items
- 4      XII.   Adjournment
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FRANK M. JORDAN  
MAYORMINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,LARRY BEACH BECKER  
PRESIDENTTuesday, December 5, 1995 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORMERRIE T. LIGHTNER  
VICE-PRESIDENT

DOCUMENTS DEPT.

BARRIE BECKER  
JONATHAN HAYDEN  
DAVID G. GRUBER  
MAMIE HOW  
POLLY MARSHALL  
KATHERINE NASH  
CATHERINE STEANE  
SHARON K. WASSERMAN

DEC 13 1995  
SAN FRANCISCO  
PUBLIC LIBRARYI. Call to Order

President L. Becker called the meeting to order at 5:35 p.m.

II. Roll CallCommissioners Present: L. Becker; Hayden; Nash; Steane;  
Wasserman.Commissioners not Present: B. Becker; How.  
Staff Present: Grubb; Wolf.

BF  
R52  
#2  
12/5/95

Commissioner Gruber appeared on the record at 5:45 p.m.; Commissioner Marshall appeared at 5:47 p.m.; and Commissioner Lightner arrived at 5:53 p.m. President L. Becker left the meeting at 8:10 p.m.

III. Consideration of Appeals

A. 2467 - 31st Ave.

Q001-25A

The tenants live in a garage unit and pay \$350.00 in monthly rent to another tenant, who lives in a house which is attached to the garage. The tenant who resides in the house keeps \$200.00 of the tenants' rent payment for "utilities", and forwards \$150.00 to the owner of the premises. On their petition, the tenants named only the tenant who resides in the house as "landlord". The hearing officer found that both the owner of the property and the tenant who resides in the house meet the definition of "landlord" in the Ordinance.

However, since only the owner was named as landlord respondent in the petition, only the \$150.00 portion of the rent which he demanded and received was held to be subject to any rent reductions granted. Therefore, the owner of the premises was found liable to the tenants in the amount of \$3,072.50 due to serious habitability defects in the illegal unit, which would not act as a bar from the tenants' pursuing any available remedies against the tenant who resides in the house. On appeal, the owner of the property maintains that the facts do not support the hearing officer's conclusion that the owner of the property is a landlord for purposes of the instant petition.

MSC: To deny the appeal. (Steane/Hayden: 3-1; Nash dissenting)



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(11/95) lk/comm/accmtg

B. 2656 Van Ness Ave.

Q001-26A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$425.00. On appeal, the landlord maintains that he failed to attend the hearing because he did not receive notice, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the landlord's appeal and remand the case to the hearing officer for a new hearing. The landlord is instructed to bring the original envelopes, attached as exhibits to his appeal, to the remand hearing. (Hayden/Gruber: 5-0)

#### IV. Executive Session

The Board went into Executive Session with Deputy City Attorney Mariam Morely pursuant to Government Code Section 54956.9(a) from 6:00 p.m. to 7:20 p.m. to discuss the cases of Hislop and Collier v. S.F. Rent Board (Superior Court Case No. 961-976) and Hudson and Boesch v. S.F. Rent Board (Superior Court Case Nos. 965026 and 965461).

#### V. Old Business

The Board discussed issues involved in the implementation of the Costa-Hawkins Bill (AB 1164). Since many of the provisions of this legislation will not go into effect until January 1, 1999, the Board's discussion focused on the categories of units that will be exempted from controls on rent after January 1, 1999; and the necessity of conforming Rules and Regulations Section 6.14 to the requirements of this new State law. Commissioner Marshall articulated her desire to keep as many of the notice provisions contained in Section 6.14 in place as possible. Commissioner Lightner volunteered to draft an amended Section 6.14 for purposes of discussion.

#### VI. New Business

Commissioner Steane announced that she will be resigning her position on the Board as of January 1, 1996.

#### VII. Calendar Items

December 12, 19 and 26, 1995 - NO MEETINGS (Happy Holidays!)

January 2, 1996

8 appeal considerations

Old Business:

- A. 99 Jersey St.
- B. Costa-Hawkins Bill: AB 1164

#### VIII. Adjournment

Vice-President Lightner adjourned the meeting at 8:15 p.m.

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